HOUSE DOCKET, NO. 3344 FILED ON: 1/18/2013

HOUSE . . . . . No. 3072

The Commonwealth of Massachusetts

PRESENTED BY:

Kate Hogan

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying:

An Act relative to the Massachusetts Aeronautics Division.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Kate Hogan	*3rd Middlesex*
Stephen L. DiNatale	*3rd Worcester*
Anne M. Gobi	*5th Worcester*
Donald F. Humason, Jr.	*4th Hampden*
Carolyn C. Dykema	*8th Middlesex*
Danielle W. Gregoire	*4th Middlesex*

HOUSE DOCKET, NO. 3344 FILED ON: 1/18/2013

HOUSE . . . . . No. 3072

By Ms. Hogan of Stow, a petition (accompanied by bill, House, No. 3072) of Kate Hogan and others relative to the Massachusetts Aeronautics Division and updating airspace regulations. Transportation.

The Commonwealth of Massachusetts

An Act relative to the Massachusetts Aeronautics Division.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1 Chapter 90 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by striking out section 35 and inserting in place thereof the following section:-

Section 35. The following words and phrases used in sections 35 to 52, inclusive, shall have the following meanings, unless a different meaning is clearly apparent from the language or context, or unless such construction is inconsistent with the manifest intention of the general court:—

"Administrator" or "director", administrator for aeronautics appointed by the secretary of transportation pursuant to section 29 of chapter 6C of the General Laws.

"Aeronautics", transportation by aircraft; the operation, construction, repair or maintenance of aircraft, aircraft power plants and accessories; the repair, packing and maintenance of parachutes; the design, establishment, construction, extension, operation, improvement, repair or maintenance of airports, restricted landing areas or other air navigation facilities; and instruction in flying or ground subjects pertaining thereto.

"Aeronautics instructor", any person who for hire engages in giving instructions or offering to give instruction in flying or ground subjects pertaining thereto.

"Air navigation facility", 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, restricted landing areas, and any structures, mechanisms, lights, beacons, markers, communicating systems, or other instrumentalities, or devices used or useful as an aid, or

26 constituting an advantage or convenience, to the safe taking off, navigation and landing of
27 aircraft, or the safe and efficient operation or maintenance of an airport or restricted landing area,
28 and any combination of any or all of such facilities.
29
30 “Air school”, (1) any aeronautics instructor who is duly certified and maintains a pilot
31 certificate in accordance with Federal Aviation Administration regulations and advertises,
32 represents, or holds himself out as giving or offering to give instruction in flying or ground
33 subjects pertaining thereto; and (2) any person who advertises, represents or holds himself out as
34 giving or offering to give instruction in flying or ground subjects pertaining thereto, whether for
35 or without hire.
36
37 “Aircraft”, any contrivance now known, or hereafter invented, used or designed for navigation
38 of or flight in the air.
39
40 “Airport”, any area of land or water other than a restricted landing area, which is used, or
41 intended for use, for the landing and take-off of aircraft, and any appurtenant areas which are
42 used, or intended for use, for airport buildings or other airport facilities or rights-of-way, together
43 with all airport buildings and facilities located thereon.
44
45 “Airport Hazard”, any structure, object of natural growth or use of land which obstructs the air
46 space required for the flight of aircraft navigating in an approach area for the purpose of landing,
47 taking off or transiting an airport or restricted landing area.
48
49 “Airman”, any person who engages, as the person in command, or as pilot, mechanic or
50 member of the crew, in the navigation of aircraft while under way, and any person who is
51 directly in charge of the inspection, maintenance, overhauling or repair of aircraft engines,
52 propellers or appliances, and any person who serves in the capacity of aircraft dispatcher or air-
53 traffic control-tower operator; but does not include any person employed outside the United
54 States, or any person employed by a manufacturer of aircraft, aircraft engines, propellers or
55 appliances, to perform duties as inspector or mechanic in connection therewith, or any person
56 performing inspection or mechanical duties in connection with aircraft owned or operated by
57 him.
58
59 “Airworthy”, an aircraft that conforms to its Federal Aviation Administrator type design and
60 certification and in a condition safe for operation.
61
62 “Citation”, a notice to an offender upon which the administrator, or his or her designee, shall
63 record one or more civil infractions which are to be disposed of under procedures in section 60B
64 of chapter 6C of the General Laws.
65

66 “Civil aircraft”, any aircraft other than a public aircraft.
67
68 “Civil infraction”, a violation of any statute, regulation, rule or directive that is to be disposed
69 of under the civil procedures in this chapter.
70
71 “Civil penalty”, the monetary amount scheduled as payment for a civil infraction.
72
73 “Dealer in aircraft” or “aircraft dealer”, any person who engages in a business in which a
74 substantial part consists of the manufacture, sale, or exchange of aircraft.
75
76 “Division”, the aeronautics division of the Massachusetts department of transportation,
77 established in section 59 of chapter 6C of the General Laws.
78
79 “Federal Aviation Administration”, the Federal Aviation Administration of the United States
80 Department of Transportation, or its successor entity.
81
82 “General Aviation”, the section of the aviation industry that excludes both military and
83 commercial passenger transport. Examples of General Aviation include private flying, air
84 charter, flight training, air ambulance, and gliding.
85
86 “Navigable Air Space”, airspace at and above the minimum flight altitudes as prescribed by the
87 Federal Aviation Administration, including airspace needed for safe takeoff and landing.
88
89 “Offense”, a violation of sections 35 to 52, inclusive, of chapter 90 of the General Laws, or any
90 directives issued or regulations promulgated, by the division.
91
92 “Operation of aircraft” or “operate aircraft”, the use, navigation or piloting of aircraft in the air
93 space over the Commonwealth or upon any airport within the Commonwealth. Any person who
94 causes or authorizes the operation of aircraft, whether with or without the right of legal control,
95 in the capacity of owner, lessee or otherwise, of the aircraft, is deemed to be engaged in the
96 operation of aircraft.
97
98 “Public aircraft”, an aircraft used exclusively in the service of any government or of any
99 political subdivision thereof, including the government of any state, territory or possession of the
100 United States, or the District of Columbia, but not including any government-owned aircraft
101 engaged in carrying persons or property for commercial purposes.
102
103 “Person”, any individual, firm, partnership, corporation, company, association, joint stock
104 association; and includes any trustee, receiver, assignee or other similar representative thereof.
105

“Restricted landing area”, any area of land or water other than an airport which is used, or is made available, for the landing and take-off of aircraft; provided, that the use of such an area meets minimum standards for aircraft operations on land or water as established by the division.

SECTION 2 Chapter 90 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by striking out section 35A and inserting in place thereof the following section:-

Section 35A. (a) The safety, welfare and protection of persons and property in the air and on the ground requires that the navigable air space overlying the Commonwealth in the approaches to, and the air traffic pattern area of, airports approved by the division be maintained in a reasonably unobstructed condition for the safe flight of aircraft, and therefore, in the exercise of the police power, the location and height of structures and the use of land thereto related is regulated as provided in sections 35B to 35D, inclusive of this chapter.

(b) Airport Vegetation Management Projects (VMP), including those relating to airports owned or operated by the Massachusetts Port Authority, that are required for public safety reasons to comply with Federal Aviation Administration and division regulations, orders, or advisories to prevent vegetation from penetrating an airport approach or safety surface, shall be exempt from regulation by any local wetlands authority and from any local ordinance or by-law and from any rule, regulation, or order of any municipal conservation commission or other board or official that may in any way interfere with such activities. Removal of vegetation in wetlands associated with an airport shall be in compliance with section 40 of chapter 131 of the General Laws and with the limited project provisions provided in 310 CMR 10.00.

(c) If any tree is allowed to grow in such manner as to become an airport hazard or in violation of any regulation adopted by the division, then the division, the administrative agency of a city, city council, or selectmen, as the case may be, may request its owner to remove or trim it so that it will no longer constitute such a hazard, and, if said owner neglects or refuses to comply with such request within sixty days, then said division, administrative agency of a city, city council, or selectmen may enter upon the owner’s land and remove or trim said tree. No part of the expense of such removal or trimming shall be charged to the owner of the tree.

SECTION 3 Chapter 90 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by striking out section 35B and inserting in place thereof the following section:-

Section 35B. No person shall construct or alter the height of a structure without a permit issued by the division, if any part of the structure is located within a protected surface associated with a runway of a public-use airport possessing a valid operating certificate issued by the division or the Federal Aviation Administration. A protected surface shall be defined in accordance with any applicable regulations, directives, orders, or advisory criteria promulgated by the Federal

Aviation Administration.

SECTION 4 Chapter 90 of the General Laws, as so appearing, is hereby further amended by striking out section 35C and inserting in place thereof the following section:-

Section 35C. All permit applications shall be made to the division on forms developed by said division. If such application is granted, the permit shall specify the location of such structure or a defined area within which it shall be located, its maximum height, and, in conformity with federal laws and regulations in so far as applicable, the obstruction markers, marking, lighting or other visual identification characteristics to be installed thereon or in its vicinity. If not inconsistent with federal laws and regulations, the permit may require that lights flash at intervals and in a specified pattern.

If such application is denied pursuant to the division's airspace review criteria, notice thereof shall be given the applicant by certified mail at the address specified in the application. The applicant may, within twenty days thereafter, file a written request with the division for a public hearing. Such hearing shall be subject to the provisions of chapter 30A.

SECTION 5 Section 35D of said chapter 90 of the General Laws, as so appearing, is hereby further amended by striking out, in lines 4 and 10, the word "commission" and inserting in place thereof, in each instance, the following word:- division

SECTION 6 Section 39 of said chapter 90 of the General Laws, as so appearing, is hereby further amended by striking out, in lines 1, 3, 4, 6, 12, 22-23, and 29, the word "commission" and inserting in place thereof, in each instance, the following word:- division

SECTION 7 Section 39A of chapter 90 of the General Laws, as so appearing, is hereby amended by striking out, in lines 1, 4, 7, 12, 15, and 18, the word "commission" and inserting in place thereof, in each instance, the following word:- division

SECTION 8 Chapter 90 of the General Laws, as so appearing, is hereby further amended by striking out section 39B and inserting in place thereof the following section:-

Section 39B. (a) Each city or town before acquiring any property within the Commonwealth for the purpose of establishing, constructing, enlarging or improving thereon an airport or restricted landing area, shall apply to the division for a certificate of approval of the site. Before granting a certificate of approval for an airport or restricted landing area, the division may, and upon the request of a resident of such city or town shall, hold a public hearing in the city or town where such airport or restricted landing area is to be located and at least seven days' notice of such hearing shall be published by the division in a newspaper of general circulation in such city or town. The administrator is authorized to hold such a hearing.

186
187 (b) No such certificate of approval of a site for an Airport or restricted landing area shall be
188 issued by the division if such Airport or area is situated on any lake or pond outside the
189 metropolitan area, unless such site has previously been approved by the mayor and city council
190 of the city, or at an annual or special town meeting of the town, within which the same is located.
191
192 (c) All Airports, restricted landing areas, and air navigation facilities shall conform to plans
193 and specifications approved by the division and shall not be in conflict with the state airport plan
194 and no such Airport, restricted landing area or air navigation facility shall be maintained or
195 operated unless a certificate of approval of the maintenance and operation thereof is granted and
196 is continued in force by the division; provided, that no such certificate of approval with respect
197 to a restricted landing area or air navigation facility on which public funds have been expended
198 shall confer an exclusive right for the use thereof.
199
200 (d) The above subsections (a), (b), and (c) shall not apply to restricted landing areas designed
201 for non-commercial private use, nor to any airport, restricted landing area or other air navigation
202 facility owned or operated within the commonwealth by the federal government; provided, that
203 each person constructing or maintaining a restricted landing area for non-commercial private use
204 shall so inform the division in writing; and provided, further, that such person shall construct and
205 maintain said restricted landing area designed for non-commercial private use in such manner as
206 shall not endanger the public safety.
207
208 (e) A city or town in which is situated the whole or any portion of an airport, restricted landing
209 area, or a restricted landing area for non-commercial private use may, as to so much thereof as is
210 located within its boundaries, make and enforce rules and regulations relative to the use and
211 operation of aircraft on said airport, restricted landing area, or restricted landing area for non-
212 commercial private use. Such rules and regulations, ordinances or by-laws shall be submitted to
213 the division and shall not take effect until approved by the division.
214
215 (f) All approvals or licenses of airports or restricted landing areas granted by the division prior
216 to the effective date of this section shall remain in effect, unless otherwise conflicting with the
217 state airport plan, any provision of sections 35 to 52, inclusive, or rules and regulations
218 promulgated by the division or the Federal Aviation Administration.
219
220 SECTION 9 Section 39C of said chapter 90, as so appearing, is hereby amended by striking
221 out, in lines 1 and 5, the word “commission” and inserting in place thereof, in each instance, the
222 following word:- division
223
224 SECTION 10 Section 39E of said chapter 90, as so appearing, is hereby amended by
225 striking out, in line 1, the word “commission” and inserting in place thereof the following word:-

division

SECTION 11 Chapter 90 of the General Laws, as so appearing, is hereby further amended by striking out section 39F inserting in place thereof the following section:-

Section 39F. Whenever any city or town undertakes, in conformity with the state airport plan, the acquisition, construction, establishment, enlargement, improvement or protection of an airport and has appropriated sufficient funds, which together with funds available under this section, shall equal at least 5 per cent of the cost thereof, the state treasurer, at the request of the division, shall pay to or reimburse such city or town from such funds as have been appropriated for such purposes, such amount, not exceeding 95 per cent of the cost of such work, as may be determined by the division.

If any such city or town appropriates sufficient funds, which, together with the funds available under this section, is equal to one hundred per cent of the cost thereof, the state treasurer, at the request of the division, shall pay to or reimburse such city or town from such funds as have been appropriated for such purpose, such amount, not exceeding 95 per cent of the cost of such work, as may be determined by the division.

SECTION 12 Chapter 90 of the General Laws, as so appearing, is hereby further amended by striking out section 40 and inserting in place thereof the following section:-

Section 40. The aeronautics division shall foster air commerce and private flying within the Commonwealth and for such purpose shall: (a) encourage the establishment of airports and air navigation facilities and the development of education in aeronautics; (b) make recommendations as to necessary legislation or action pertaining thereto; (c) consult with the Federal Aviation Administration and other agencies of the federal government in carrying forward research and development in aeronautics; (d) exchange with the said Federal Aviation Administration and with other state governments through existing governmental channels information pertaining to civil air navigation.

The division may: (1) co-operate with the federal government, and with any agency or department thereof, in the acquisition, establishment, construction, enlargement, improvement, protection, equipment, maintenance and operation of airports and other air navigation facilities within the Commonwealth, and comply with the provisions of federal law, and any rules and regulations made thereunder, for the expenditure of federal funds for or in connection with such airports or other navigation facilities; (2) accept, receive and receipt for federal funds, and also other funds, public or private, for and in behalf of the Commonwealth or as agent for any subdivision thereof, for the acquisition, establishment, construction, enlargement, improvement, protection, equipment, maintenance and operation of airports and other air navigation facilities within the commonwealth or such subdivisions, or jointly; provided that, if federal funds are

266 received for such work, such funds shall be accepted upon such terms and conditions as may be
267 prescribed by federal law and any rules and regulations made thereunder; (3) advise and co-
268 operate with any political subdivision of this state or of any other state in all or any matters
269 relating to aeronautics. For such purpose the division may confer with, or hold joint hearings
270 with, any federal or state aeronautical agency in connection with any provision of sections 35 to
271 52, inclusive.
272
273 The division shall enforce sections 35 to 52, inclusive, and all orders, rules and regulations
274 made pursuant thereto and other laws of the Commonwealth relating to aeronautics, and shall
275 have and may exercise for any or all of such purposes such powers and authority as may be
276 reasonably necessary therefor. Every state, county and municipal officer charged with the
277 enforcement of laws in their respective jurisdiction shall assist and co-operate with the division
278 in such enforcement.
279 Persons employed as inspectors under the provisions of section 59 of chapter 6 shall have and
280 exercise throughout the Commonwealth all the powers of constables, except the service of civil
281 process, and of police officers, including the power to arrest any person who, in the presence of
282 the inspector making the arrest, commits a breach of the peace which violates any provision of
283 the aviation law as contained in this chapter or the rules and regulations established by the
284 division and they may serve all process issued by the courts with respect to the enforcement of
285 such laws. Any officer authorized to make arrests, providing such officer is in uniform or
286 displaying his badge of office conspicuously on his outer coat or garment, may arrest without a
287 warrant any person who operates an aircraft and who does not have in his possession a license to
288 operate an aircraft, granted by federal authority; or who violates any statute or regulation relating
289 to the operation or control of aircraft; or who operates said aircraft while under the influence of
290 intoxicating liquor; or who refuses to produce a pilot or aircraft license or registration upon
291 request; or who uses an aircraft without authority; or who is a non-resident operator violating any
292 statute or regulation relating to the control of aircraft.
293
294 The pilot in command of any aircraft carrying passengers for hire may take such action as is
295 reasonably necessary to restrain any person who interferes with, or threatens to interfere with, the
296 operation of the aircraft.
297
298 The person so restrained may be placed in charge of a police officer in the city or town where
299 the aircraft next lands within the Commonwealth, to be taken to a lawful place of detention.
300 Complaint shall be made against the person arrested, by the officer taking him to the place of
301 detention, to a district court having jurisdiction over such offenses committed in the city or town
302 where such person is detained, and such court shall have jurisdiction of the case.
303
304 SECTION 13 Section 40A of said chapter 90 is hereby repealed.
305

SECTION 14 Chapter 90 of the General Laws, as so appearing, is hereby further amended by striking out section 40B and inserting in place thereof the following section:-

Section 40B. Notwithstanding any city charter provision, or local ordinance or by-law to the contrary, the division shall adopt uniform airport approach regulations, in accordance with any applicable federal laws, regulations, directives and advisory circulars. Said regulations shall apply to all public-use Airports within the commonwealth.

SECTION 15 Sections 40C, 40D, 40E, and 40F of said chapter 90 are hereby repealed.

SECTION 16 Chapter 90 of the General Laws, as so appearing, is hereby further amended by striking out section 40G and inserting in place thereof the following section:-

Section 40G. (a) In any case in which, in the opinion of the city council of a city, or the selectmen of a town, in which the real estate hereinafter referred to is located, or owning the Airport in question, the public interest requires the establishment of protection to the approaches of a publicly owned airport by the acquisition of certain real estate or rights in real estate in the vicinity of such airport rather than by airport approach regulations adopted by the division, such city or town may take by eminent domain under chapter 79 or chapter 80A, or acquire by purchase or otherwise, such air rights, easements or other estate or interest in such real estate as will provide adequate protection. A city or town which has acquired real estate or rights therein as aforesaid may from time to time in like manner take or otherwise acquire additional real estate or rights therein, or may discontinue in whole or in part rights already so acquired.

(b) Whenever airport approach regulations have been adopted or amended by the division and the public safety and convenience require the removal or lowering of a structure or tree not conforming to such regulations, or require other interference with the continuance of any such non-conforming structure or tree, the city or town owning the airport to which such regulations relate may take by eminent domain under chapter 79 or chapter 80A, or acquire by purchase or otherwise, the land upon which such structure or tree stands, or such an air right, easement or other estate or interest therein, as may be necessary.

SECTION 17 Sections 40H and 40I of said chapter 90 are hereby repealed.

SECTION 18 Chapter 90 of the General Laws, as so appearing, is hereby further amended by striking out section 41 and inserting in place thereof the following section:-

Section 41. The administrator may conduct investigations or hearings relative to matters covered by any provision of sections 35 to 52, inclusive, or of any order, rule or regulation of the division, and shall conduct investigations relative to any accident involving personal injury

346 occurring in connection with aeronautics within the Commonwealth.
347 The division shall report to the Federal Aviation Administration accidents within the
348 commonwealth, and so far as possible, shall preserve, protect and prevent the removal of the
349 component parts of any aircraft involved in any such accident being investigated by it.
350
351 SECTION 19 Chapter 90 of the General Laws, as so appearing, is hereby further
352 amended by striking out section 42 and inserting in place thereof the following section:-
353 Section 42. The superior court shall have jurisdiction to enforce any lawful rule, regulation, or
354 order made by the division, and may compel the attendance of and the giving of testimony by
355 witnesses before the division or any member thereof, in the same manner and to the same extent
356 as before said court.
357
358 SECTION 20 Section 43 of said chapter 90 is hereby repealed.
359
360 SECTION 21 Chapter 90 of the General Laws, as so appearing, is hereby further
361 amended by striking out section 44and inserting in place thereof the following section:-
362 Section 44. Any person failing to comply with any requirement, or violating any provision, of
363 this chapter, or any rules and regulations for the enforcement of this chapter made by the
364 division, and in full force and effect, shall be punished by a fine, as established by the division,
365 not to exceed ten thousand dollars, or by imprisonment for not less than one month nor more
366 than six months, or both. Whoever operates an aircraft while under the influence of an
367 intoxicating substance shall be punished by imprisonment for not less than one month nor more
368 than two years.
369
370 SECTION 22 Chapter 90 of the General Laws, as so appearing, is hereby further
371 amended by striking out section 45 and inserting in place thereof the following section:-
372
373 Section 45. Any person aggrieved by any rule or regulation promulgated by the division, or by
374 any ruling, decision, or order under any provision of this chapter may, within thirty days after the
375 effective date of such rule or regulation or within thirty days after such ruling, decision, or order,
376 appeal to the superior court.
377
378 SECTION 23 Chapter 90 of the General Laws, as so appearing, is hereby further
379 amended by striking out section 46 and inserting in place thereof the following section:-
380 Section 46. Flight of aircraft over the lands and waters of this Commonwealth, within the
381 navigable air space as defined in section 35, shall be lawful unless at such a low altitude as to be
382 imminently dangerous to persons or property lawfully on the land or water beneath.
383
384 SECTION 24 Section 47 of said chapter 90, as so appearing, is hereby amended by
385 striking out, in line 4, the words “of navigation”.

SECTION 25 Said section 47 of said chapter 90, as so appearing, is hereby further amended by striking out, in line 6, the words “Civil Aeronautics Authority” and inserting in place thereof the following:- Federal Aviation Administration.

SECTION 26 Said section 47 of said chapter 90, as so appearing, is hereby further amended by striking out, in line 14-16, the words “, nor to glider pilots licensed by the commission in accordance with such regulations as it may prescribe”.

SECTION 27 Section 48 of said chapter 90, as so appearing, is hereby amended by striking out, in lines 8-9, the words “Civil Aeronautics Authority” and inserting in place thereof the following words:- Federal Aviation Administration.

SECTION 28 Said section 48 of said chapter 90, as so appearing, is hereby further amended by striking out, in lines 15 and 18, the word “commission” and inserting in place thereof, in each instance, the following word:- division.

SECTION 29 Said section 48 of said chapter 90, as so appearing, is hereby further amended by striking out, in lines 16 to 17, the words “, nor to glider pilots licensed by the commission in accordance with such regulations as it may prescribe”.

SECTION 30 Chapter 90 of the General Laws, as so appearing, is hereby further amended by striking out section 49 and inserting in place thereof the following section:-

Section 49. Each owner or operator of an airworthy aircraft based in Massachusetts or dealer in aircraft in Massachusetts shall register said aircraft or federal dealer’s aircraft certificate in such a manner as the division may by regulation prescribe.

(a) Subject to the limitations of paragraphs (b) and (c), every person who owns or operates an airworthy aircraft shall register the aircraft with the division during each calendar year in which the aircraft is based within the commonwealth for 60 cumulative days or more. Every dealer in aircraft shall register a federal dealer’s aircraft registration certificate with the division. The division may charge fees for each such registration certificate and for each renewal thereof. Further, the division may charge for the registration of each federal dealer’s aircraft registration certificate for each aircraft in the dealer’s possession operated solely for the purpose of sale or demonstration. The amounts of said fees and charges shall be determined annually by the secretary of administration and finance under the provisions of section 3B of chapter 7 and published in 801 CMR 4.02. Such fees shall be in lieu of all personal property taxes on aircraft authorized by any law, ordinance, or by-law. Registration certificates issued after expiration of the first 6 months of the annual registration period, as prescribed by the division, shall be issued

426 upon payment of 50 per cent of the annual fee.
427
428 If the annual registration fee is not received by the division on or before December 31, a late
429 fee in an amount determined by the division may be assessed in addition to the specified annual
430 registration fee. The timely annual registration of all airworthy aircraft and dealers in aircraft
431 shall be the sole responsibility of aircraft owners and dealers. The deadline for registration
432 renewal of all airworthy aircraft and for dealer's in aircraft is December 31.
433
434 (b) Possession of the appropriate effective federal aircraft certificate or dealer's certificate, and
435 the payment of the appropriate fee as set forth in 801 CMR 4.02, shall be the only requisites for
436 registration of an aircraft or dealer in aircraft.
437
438 (c) The provisions of this section shall not apply to:
439
440 (1) an aircraft owned by and used exclusively in the service of any government, including the
441 government of the United States or of any state thereof, or political subdivision thereof, which is
442 not engaged in carrying persons or property for commercial purposes;
443
444 (2) an aircraft registered under the laws of a foreign country; or
445
446 (3) an aircraft engaged principally in federally certificated scheduled airline operation as
447 provided by the Federal Aviation Administration, or its successor.
448
449 SECTION 31 Sections 49A to 50, inclusive, of said chapter 90, as so appearing, are
450 hereby repealed.
451
452 SECTION 32 Section 51J of said chapter 90, as so appearing, is hereby further amended
453 by striking out, in lines 6 and 9-10, the words "Massachusetts aeronautics commission" and
454 inserting in place thereof, in each instance, the following:- division.
455
456 SECTION 33 Section 51K of said chapter 90, as so appearing, is hereby further amended
457 by striking out, in lines 2-3 and 12-13, the word "Massachusetts aeronautics commission" and
458 inserting in place thereof, in each instance, the following:- division.
459
460 SECTION 34 Said section 51K of said chapter 90, as so appearing, is hereby further
461 amended by striking out, in lines 4-5, the words "said last mentioned commission" and inserting
462 in place thereof the following:- the division.
463
464 SECTION 35 Section 51L of said chapter 90, as so appearing, is hereby further amended
465 by striking out, in lines 4-5 and 10, the words "Massachusetts aeronautics division" and inserting

in place thereof, in each instance, the following:- division.

SECTION 36 Section 51M of said chapter 90, as so appearing, is hereby further amended by striking out, in line 5, the words “under the ‘drive it yourself’ system, so called” and inserting in place thereof the following:- through a car rental business.

SECTION 37 Chapter 90 of the General Laws, as so appearing, is hereby further amended by striking out section 51N, and inserting in place thereof the following section:-

Section 51N. (a) Except to the extent inconsistent with then current law, two or more municipalities, by vote of the city council in a city with the approval of the mayor or by vote of a town meeting in a town, may agree to establish, maintain and operate an Airport as a joint enterprise, in this section referred to as a joint airport. For the purposes of this section, the foregoing authorization, in so far as it relates to the establishment of a joint airport, shall be deemed also to authorize the acquisition, construction, enlargement and improvement thereof, including other action involving capital expenditures in connection with such an airport, all of which action shall be comprehended within the meaning of the words “establish”, “establishing” and “establishment”, and such authorization, in so far as it relates to the maintenance and operation of such an airport, shall be deemed also to authorize the regulation, protection, policing, alteration or repair thereof, including other action involving expenditures, other than capital expenditures, in connection with such an airport, all of which action shall be comprehended within the meaning of the words “maintain and operate”, “maintaining and operating” and “maintenance and operation”. Within thirty days after such votes have been passed the mayor and city council of cities and selectmen of towns which have so voted shall meet and draft a tentative agreement covering the contemplated action or actions. Said tentative agreement when completed shall be submitted and may be resubmitted to the director of accounts in the department of corporations and taxation for approval as to its financial provisions and to the division for approval as to its other provisions. The agreement, as approved by the division and said director, shall become effective when agreed to by the mayor and city council of each such city and the town meeting of each such town. Any reference in this section to the mayor of a city shall, in case of a city having a Plan E form of government, be deemed to refer to its city manager.

(b) In addition to the provisions covering the requirements contained in this section, such an agreement shall include, but shall not be limited to, provision for the following:

(1) Establishing a joint airport commission for the purpose of exercising as agent all of the powers relative to the joint airport granted to each participating municipality, specifying the terms of office and compensation of each member of such a commission.

(2) Choice by the joint airport commission of officers of the joint enterprise including a treasurer who may be treasurer of one of the participating municipalities and who shall be custodian of the joint airport fund and shall deposit with the director of accounts a bond running to such municipalities with a surety company authorized to transact business in the commonwealth as surety, for the faithful performance of his duties as treasurer of the joint enterprise, in such form and upon such conditions as said director may require. Said director shall cause an audit to be made of the accounts of the joint enterprise and may cause subsequent audits to be made of such accounts annually, and for this purpose he and his duly accredited agents shall have access to all necessary books, papers and records. Upon completion of such audit, copies of the report thereof shall be sent to the treasurer of the joint enterprise and to the mayor, selectmen, and city or town clerk of each participating municipality.

(3) Establishing a joint airport fund into which there shall be deposited the proportionate share of the cost and expenses incident to the establishing, maintaining and operating of the joint airport, all revenues obtained from or on account of the joint airport and all federal, state and other contributions or loans and from which disbursement shall be made by order of the joint airport commission.

(4) Specifying the proportionate interest of each participating municipality in the joint airport and its proportionate share of the cost and expenses and indebtedness incident to the establishing, maintaining and operating thereof, which proportionate interest and share shall be determined on the basis of the taxable valuations of said municipalities as last established by the general court as a basis for state and county taxes or on any other basis agreed upon.

(5) Terminating the joint enterprise and liquidating its affairs.

(6) Amending the agreement, provided that any amendment thereof providing for the enlargement of the joint airport or any alteration or improvement thereof involving capital expenditures shall become effective only when agreed to by the mayor and city council of each participating city and the town meeting of each participating town.

(c) The joint airport commission from time to time shall determine the amounts necessary to be raised to establish the joint airport and shall apportion the balance needed, over and above the amount available for such purposes in the joint airport fund, among the several participating municipalities on the basis set forth in the agreement and shall promptly thereafter notify said municipalities of such apportionment by sending notice to the mayor, in the case of a city, and to the selectmen, in the case of a town. There shall be no referendum to the voters on any action taken under this paragraph by the legislative body of any participating municipality. In case any such municipality fails to pay over to the treasurer of the joint enterprise the amount of its apportionment within the time specified in the agreement for such payment, the treasurer of such

546 municipality shall forthwith certify such amount to the board of assessors of his municipality
547 who shall include such amount in the tax levy next following the certification, and the amount
548 when raised shall be paid over by the treasurer of such municipality to the treasurer of the joint
549 enterprise.
550
551 The joint airport commission shall determine the amounts necessary to be raised to maintain
552 and operate the joint airport and shall apportion the balance needed, over and above the amount
553 available for such purposes in the joint airport fund, among the several participating
554 municipalities on the basis set forth in the agreement and shall promptly thereafter notify the
555 treasurers of said municipalities of such apportionment. Every treasurer so notified shall,
556 annually in December, certify the amount of such apportionment to the board of assessors of his
557 municipality, who shall, unless funds are available from appropriations or otherwise, include
558 such amount in the tax levy of the following year, and the amount of such apportionment shall be
559 paid over by the treasurer of such municipality to the treasurer of the joint enterprise within the
560 time specified in the agreement for such payment.
561
562 Action by a participating municipality in establishing, maintaining and operating a joint airport
563 shall be authorized to the same extent and subject to the same provisions of law as in the case of
564 like action by such municipality independently with respect to an airport, except as otherwise
565 provided in this section and except that the joint airport commission is authorized to acquire
566 property by eminent domain, purchase or otherwise for purposes of the joint airport in the names
567 of the participating municipalities but only within the territorial limits of such municipalities, and
568 each of such municipalities shall have the same interest in the property so acquired that it has in
569 the joint airport under the agreement.
570
571 Section 38. Notwithstanding any general or special law to the contrary, no city or town shall
572 limit or restrict the authority of an airport commission, as established by this chapter and
573 specifically with regard to an airport commission's authority over the management, operation,
574 and control of an airport, through charter provision, local ordinance or by-law, or regulation.
575
576 SECTION 38 Chapter 90 of the General Laws, as so appearing, is hereby further
577 amended by striking out section 52, and inserting in place thereof the following section:-
578
579 Section 52. If any provision of said sections 35 to 51, inclusive, is declared unconstitutional or
580 the application thereof to any person or circumstance is held invalid, the validity of the
581 remaining provisions thereof and the application of such provision to other persons and
582 circumstances shall not be affected thereby. These sections, being necessary for the welfare of
583 the commonwealth and its inhabitants, shall be liberally construed to effect the purposes hereof.
584