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 adoption of the accompanying bill:

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 Humason	
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

In the Year Two Thousand Thirteen

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,

20 communicating systems, or other instrumentalities, or devices used or useful as an aid, or
21 constituting an advantage or convenience, to the safe taking off, navigation and landing of
22 aircraft, or the safe and efficient operation or maintenance of an airport or restricted landing area,
23 and any combination of any or all of such facilities.

24 "Air school", (1) any aeronautics instructor who is duly certified and maintains a pilot
25 certificate in accordance with Federal Aviation Administration regulations and advertises,
26 represents, or holds himself out as giving or offering to give instruction in flying or ground
27 subjects pertaining thereto; and (2) any person who advertises, represents or holds himself out as
28 giving or offering to give instruction in flying or ground subjects pertaining thereto, whether for
29 or without hire.

30 "Aircraft", any contrivance now known, or hereafter invented, used or designed for
31 navigation of or flight in the air.

32 "Airport", any area of land or water other than a restricted landing area, which is used, or
33 intended for use, for the landing and take-off of aircraft, and any appurtenant areas which are
34 used, or intended for use, for airport buildings or other airport facilities or rights-of-way, together
35 with all airport buildings and facilities located thereon.

36 "Airport Hazard", any structure, object of natural growth or use of land which obstructs
37 the air space required for the flight of aircraft navigating in an approach area for the purpose of
38 landing, taking off or transiting an airport or restricted landing area.

39 "Airman", any person who engages, as the person in command, or as pilot, mechanic or
40 member of the crew, in the navigation of aircraft while under way, and any person who is
41 directly in charge of the inspection, maintenance, overhauling or repair of aircraft engines,
42 propellers or appliances, and any person who serves in the capacity of aircraft dispatcher or air-
43 traffic control-tower operator; but does not include any person employed outside the United
44 States, or any person employed by a manufacturer of aircraft, aircraft engines, propellers or
45 appliances, to perform duties as inspector or mechanic in connection therewith, or any person
46 performing inspection or mechanical duties in connection with aircraft owned or operated by
47 him.

48 "Airworthy", an aircraft that conforms to its Federal Aviation Administrator type design
49 and certification and in a condition safe for operation.

50 "Citation", a notice to an offender upon which the administrator, or his or her designee,
51 shall record one or more civil infractions which are to be disposed of under procedures in section
52 60B of chapter 6C of the General Laws.

53 "Civil aircraft", any aircraft other than a public aircraft.

54 “Civil infraction”, a violation of any statute, regulation, rule or directive that is to be
55 disposed of under the civil procedures in this chapter.

56 “Civil penalty”, the monetary amount scheduled as payment for a civil infraction.

57 “Dealer in aircraft” or “aircraft dealer”, any person who engages in a business in which a
58 substantial part consists of the manufacture, sale, or exchange of aircraft.

59 “Division”, the aeronautics division of the Massachusetts department of transportation,
60 established in section 59 of chapter 6C of the General Laws.

61 “Federal Aviation Administration”, the Federal Aviation Administration of the United
62 States Department of Transportation, or its successor entity.

63 “General Aviation”, the section of the aviation industry that excludes both military and
64 commercial passenger transport. Examples of General Aviation include private flying, air
65 charter, flight training, air ambulance, and gliding.

66 “Navigable Air Space”, airspace at and above the minimum flight altitudes as prescribed
67 by the Federal Aviation Administration, including airspace needed for safe takeoff and landing.

68 “Offense”, a violation of sections 35 to 52, inclusive, of chapter 90 of the General Laws,
69 or any directives issued or regulations promulgated, by the division.

70 “Operation of aircraft” or “operate aircraft”, the use, navigation or piloting of aircraft in
71 the air space over the Commonwealth or upon any airport within the Commonwealth. Any
72 person who causes or authorizes the operation of aircraft, whether with or without the right of
73 legal control, in the capacity of owner, lessee or otherwise, of the aircraft, is deemed to be
74 engaged in the operation of aircraft.

75 “Public aircraft”, an aircraft used exclusively in the service of any government or of any
76 political subdivision thereof, including the government of any state, territory or possession of the
77 United States, or the District of Columbia, but not including any government-owned aircraft
78 engaged in carrying persons or property for commercial purposes.

79 “Person”, any individual, firm, partnership, corporation, company, association, joint stock
80 association; and includes any trustee, receiver, assignee or other similar representative thereof.

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

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

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

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

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

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

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

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

120 Section 35C. All permit applications shall be made to the division on forms developed by
121 said division. If such application is granted, the permit shall specify the location of such structure
122 or a defined area within which it shall be located, its maximum height, and, in conformity with
123 federal laws and regulations in so far as applicable, the obstruction markers, marking, lighting or

124 other visual identification characteristics to be installed thereon or in its vicinity. If not
125 inconsistent with federal laws and regulations, the permit may require that lights flash at
126 intervals and in a specified pattern.

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

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

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

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

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

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

150 (b) No such certificate of approval of a site for an Airport or restricted landing area shall
151 be issued by the division if such Airport or area is situated on any lake or pond outside the
152 metropolitan area, unless such site has previously been approved by the mayor and city council
153 of the city, or at an annual or special town meeting of the town, within which the same is located.

154 (c) All Airports, restricted landing areas, and air navigation facilities shall conform to
155 plans and specifications approved by the division and shall not be in conflict with the state
156 airport plan and no such Airport, restricted landing area or air navigation facility shall be
157 maintained or operated unless a certificate of approval of the maintenance and operation thereof
158 is granted and is continued in force by the division; provided, that no such certificate of approval

159 with respect to a restricted landing area or air navigation facility on which public funds have
160 been expended shall confer an exclusive right for the use thereof.

161 (d) The above subsections (a), (b), and (c) shall not apply to restricted landing areas
162 designed for non-commercial private use, nor to any airport, restricted landing area or other air
163 navigation facility owned or operated within the commonwealth by the federal government;
164 provided, that each person constructing or maintaining a restricted landing area for non-
165 commercial private use shall so inform the division in writing; and provided, further, that such
166 person shall construct and maintain said restricted landing area designed for non-commercial
167 private use in such manner as shall not endanger the public safety.

168 (e) A city or town in which is situated the whole or any portion of an airport, restricted
169 landing area, or a restricted landing area for non-commercial private use may, as to so much
170 thereof as is located within its boundaries, make and enforce rules and regulations relative to the
171 use and operation of aircraft on said airport, restricted landing area, or restricted landing area for
172 non-commercial private use. Such rules and regulations, ordinances or by-laws shall be
173 submitted to the division and shall not take effect until approved by the division.

174 (f) All approvals or licenses of airports or restricted landing areas granted by the division
175 prior to the effective date of this section shall remain in effect, unless otherwise conflicting with
176 the state airport plan, any provision of sections 35 to 52, inclusive, or rules and regulations
177 promulgated by the division or the Federal Aviation Administration.

178 SECTION 9 Section 39C of said chapter 90, as so appearing, is hereby amended by
179 striking out, in lines 1 and 5, the word “commission” and inserting in place thereof, in each
180 instance, the following word:- division

181 SECTION 10 Section 39E of said chapter 90, as so appearing, is hereby amended by
182 striking out, in line 1, the word “commission” and inserting in place thereof the following word:-
183 division

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

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

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

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

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

208 The division may: (1) co-operate with the federal government, and with any agency or
209 department thereof, in the acquisition, establishment, construction, enlargement, improvement,
210 protection, equipment, maintenance and operation of airports and other air navigation facilities
211 within the Commonwealth, and comply with the provisions of federal law, and any rules and
212 regulations made thereunder, for the expenditure of federal funds for or in connection with such
213 airports or other navigation facilities; (2) accept, receive and receipt for federal funds, and also
214 other funds, public or private, for and in behalf of the Commonwealth or as agent for any
215 subdivision thereof, for the acquisition, establishment, construction, enlargement, improvement,
216 protection, equipment, maintenance and operation of airports and other air navigation facilities
217 within the commonwealth or such subdivisions, or jointly; provided that, if federal funds are
218 received for such work, such funds shall be accepted upon such terms and conditions as may be
219 prescribed by federal law and any rules and regulations made thereunder; (3) advise and co-
220 operate with any political subdivision of this state or of any other state in all or any matters
221 relating to aeronautics. For such purpose the division may confer with, or hold joint hearings
222 with, any federal or state aeronautical agency in connection with any provision of sections 35 to
223 52, inclusive.

224 The division shall enforce sections 35 to 52, inclusive, and all orders, rules and
225 regulations made pursuant thereto and other laws of the Commonwealth relating to aeronautics,
226 and shall have and may exercise for any or all of such purposes such powers and authority as
227 may be reasonably necessary therefor. Every state, county and municipal officer charged with
228 the enforcement of laws in their respective jurisdiction shall assist and co-operate with the
229 division in such enforcement.

230 Persons employed as inspectors under the provisions of section 59 of chapter 6 shall have
231 and exercise throughout the Commonwealth all the powers of constables, except the service of
232 civil process, and of police officers, including the power to arrest any person who, in the
233 presence of the inspector making the arrest, commits a breach of the peace which violates any
234 provision of the aviation law as contained in this chapter or the rules and regulations established
235 by the division and they may serve all process issued by the courts with respect to the
236 enforcement of such laws. Any officer authorized to make arrests, providing such officer is in
237 uniform or displaying his badge of office conspicuously on his outer coat or garment, may arrest
238 without a warrant any person who operates an aircraft and who does not have in his possession a
239 license to operate an aircraft, granted by federal authority; or who violates any statute or
240 regulation relating to the operation or control of aircraft; or who operates said aircraft while
241 under the influence of intoxicating liquor; or who refuses to produce a pilot or aircraft license or
242 registration upon request; or who uses an aircraft without authority; or who is a non-resident
243 operator violating any statute or regulation relating to the control of aircraft.

244 The pilot in command of any aircraft carrying passengers for hire may take such action as
245 is reasonably necessary to restrain any person who interferes with, or threatens to interfere with,
246 the operation of the aircraft.

247 The person so restrained may be placed in charge of a police officer in the city or town
248 where the aircraft next lands within the Commonwealth, to be taken to a lawful place of
249 detention. Complaint shall be made against the person arrested, by the officer taking him to the
250 place of detention, to a district court having jurisdiction over such offenses committed in the city
251 or town where such person is detained, and such court shall have jurisdiction of the case.

252 SECTION 13 Section 40A of said chapter 90 is hereby repealed.

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

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

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

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

262 Section 40G. (a) In any case in which, in the opinion of the city council of a city, or the
263 selectmen of a town, in which the real estate hereinafter referred to is located, or owning the
264 Airport in question, the public interest requires the establishment of protection to the approaches

265 of a publicly owned airport by the acquisition of certain real estate or rights in real estate in the
266 vicinity of such airport rather than by airport approach regulations adopted by the division, such
267 city or town may take by eminent domain under chapter 79 or chapter 80A, or acquire by
268 purchase or otherwise, such air rights, easements or other estate or interest in such real estate as
269 will provide adequate protection. A city or town which has acquired real estate or rights therein
270 as aforesaid may from time to time in like manner take or otherwise acquire additional real estate
271 or rights therein, or may discontinue in whole or in part rights already so acquired.

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

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

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

282 Section 41. The administrator may conduct investigations or hearings relative to matters
283 covered by any provision of sections 35 to 52, inclusive, or of any order, rule or regulation of the
284 division, and shall conduct investigations relative to any accident involving personal injury
285 occurring in connection with aeronautics within the Commonwealth.

286 The division shall report to the Federal Aviation Administration accidents within the
287 commonwealth, and so far as possible, shall preserve, protect and prevent the removal of the
288 component parts of any aircraft involved in any such accident being investigated by it.

289 SECTION 19 Chapter 90 of the General Laws, as so appearing, is hereby further
290 amended by striking out section 42 and inserting in place thereof the following section:-

291 Section 42. The superior court shall have jurisdiction to enforce any lawful rule,
292 regulation, or order made by the division, and may compel the attendance of and the giving of
293 testimony by witnesses before the division or any member thereof, in the same manner and to the
294 same extent as before said court.

295 SECTION 20 Section 43 of said chapter 90 is hereby repealed.

296 SECTION 21 Chapter 90 of the General Laws, as so appearing, is hereby further
297 amended by striking out section 44and inserting in place thereof the following section:-

298 Section 44. Any person failing to comply with any requirement, or violating any
299 provision, of this chapter, or any rules and regulations for the enforcement of this chapter made
300 by the division, and in full force and effect, shall be punished by a fine, as established by the
301 division, not to exceed ten thousand dollars, or by imprisonment for not less than one month nor
302 more than six months, or both. Whoever operates an aircraft while under the influence of an
303 intoxicating substance shall be punished by imprisonment for not less than one month nor more
304 than two years.

305 SECTION 22 Chapter 90 of the General Laws, as so appearing, is hereby further
306 amended by striking out section 45 and inserting in place thereof the following section:-

307 Section 45. Any person aggrieved by any rule or regulation promulgated by the division,
308 or by any ruling, decision, or order under any provision of this chapter may, within thirty days
309 after the effective date of such rule or regulation or within thirty days after such ruling, decision,
310 or order, appeal to the superior court.

311 SECTION 23 Chapter 90 of the General Laws, as so appearing, is hereby further
312 amended by striking out section 46 and inserting in place thereof the following section:-

313 Section 46. Flight of aircraft over the lands and waters of this Commonwealth, within the
314 navigable air space as defined in section 35, shall be lawful unless at such a low altitude as to be
315 imminently dangerous to persons or property lawfully on the land or water beneath.

316 SECTION 24 Section 47 of said chapter 90, as so appearing, is hereby amended by
317 striking out, in line 4, the words “of navigation”.

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

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

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

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

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

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

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

338 (a) Subject to the limitations of paragraphs (b) and (c), every person who owns or
339 operates an airworthy aircraft shall register the aircraft with the division during each calendar
340 year in which the aircraft is based within the commonwealth for 60 cumulative days or more.
341 Every dealer in aircraft shall register a federal dealer’s aircraft registration certificate with the
342 division. The division may charge fees for each such registration certificate and for each renewal
343 thereof. Further, the division may charge for the registration of each federal dealer’s aircraft
344 registration certificate for each aircraft in the dealer’s possession operated solely for the purpose
345 of sale or demonstration. The amounts of said fees and charges shall be determined annually by
346 the secretary of administration and finance under the provisions of section 3B of chapter 7 and
347 published in 801 CMR 4.02. Such fees shall be in lieu of all personal property taxes on aircraft
348 authorized by any law, ordinance, or by-law. Registration certificates issued after expiration of
349 the first 6 months of the annual registration period, as prescribed by the division, shall be issued
350 upon payment of 50 per cent of the annual fee.

351 If the annual registration fee is not received by the division on or before December 31, a
352 late fee in an amount determined by the division may be assessed in addition to the specified
353 annual registration fee. The timely annual registration of all airworthy aircraft and dealers in
354 aircraft shall be the sole responsibility of aircraft owners and dealers. The deadline for
355 registration renewal of all airworthy aircraft and for dealer’s in aircraft is December 31.

356 (b) Possession of the appropriate effective federal aircraft certificate or dealer’s
357 certificate, and the payment of the appropriate fee as set forth in 801 CMR 4.02, shall be the only
358 requisites for registration of an aircraft or dealer in aircraft.

359 (c) The provisions of this section shall not apply to:

360 (1) an aircraft owned by and used exclusively in the service of any government, including
361 the government of the United States or of any state thereof, or political subdivision thereof,
362 which is not engaged in carrying persons or property for commercial purposes;

363 (2) an aircraft registered under the laws of a foreign country; or

364 (3) an aircraft engaged principally in federally certificated scheduled airline operation as
365 provided by the Federal Aviation Administration, or its successor.

366 SECTION 31 Sections 49A to 50, inclusive, of said chapter 90, as so appearing, are
367 hereby repealed.

368

369 SECTION 32 Section 51J of said chapter 90, as so appearing, is hereby further amended
370 by striking out, in lines 6 and 9-10, the words “Massachusetts aeronautics commission” and
371 inserting in place thereof, in each instance, the following:- division.

372 SECTION 33 Section 51K of said chapter 90, as so appearing, is hereby further amended
373 by striking out, in lines 2-3 and 12-13, the word “Massachusetts aeronautics commission” and
374 inserting in place thereof, in each instance, the following:- division.

375 SECTION 34 Said section 51K of said chapter 90, as so appearing, is hereby further
376 amended by striking out, in lines 4-5, the words “said last mentioned commission” and inserting
377 in place thereof the following:- the division.

378 SECTION 35 Section 51L of said chapter 90, as so appearing, is hereby further amended
379 by striking out, in lines 4-5 and 10, the words “Massachusetts aeronautics division” and inserting
380 in place thereof, in each instance, the following:- division.

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

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

386 Section 51N. (a) Except to the extent inconsistent with then current law, two or more
387 municipalities, by vote of the city council in a city with the approval of the mayor or by vote of a
388 town meeting in a town, may agree to establish, maintain and operate an Airport as a joint
389 enterprise, in this section referred to as a joint airport. For the purposes of this section, the
390 foregoing authorization, in so far as it relates to the establishment of a joint airport, shall be
391 deemed also to authorize the acquisition, construction, enlargement and improvement thereof,
392 including other action involving capital expenditures in connection with such an airport, all of
393 which action shall be comprehended within the meaning of the words “establish”, “establishing”
394 and “establishment”, and such authorization, in so far as it relates to the maintenance and
395 operation of such an airport, shall be deemed also to authorize the regulation, protection,
396 policing, alteration or repair thereof, including other action involving expenditures, other than
397 capital expenditures, in connection with such an airport, all of which action shall be
398 comprehended within the meaning of the words “maintain and operate”, “maintaining and

399 operating" and "maintenance and operation". Within thirty days after such votes have been
400 passed the mayor and city council of cities and selectmen of towns which have so voted shall
401 meet and draft a tentative agreement covering the contemplated action or actions. Said tentative
402 agreement when completed shall be submitted and may be resubmitted to the director of
403 accounts in the department of corporations and taxation for approval as to its financial provisions
404 and to the division for approval as to its other provisions. The agreement, as approved by the
405 division and said director, shall become effective when agreed to by the mayor and city council
406 of each such city and the town meeting of each such town. Any reference in this section to the
407 mayor of a city shall, in case of a city having a Plan E form of government, be deemed to refer to
408 its city manager.

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

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

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

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

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

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

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

440 (c) The joint airport commission from time to time shall determine the amounts necessary
441 to be raised to establish the joint airport and shall apportion the balance needed, over and above
442 the amount available for such purposes in the joint airport fund, among the several participating
443 municipalities on the basis set forth in the agreement and shall promptly thereafter notify said
444 municipalities of such apportionment by sending notice to the mayor, in the case of a city, and to
445 the selectmen, in the case of a town. There shall be no referendum to the voters on any action
446 taken under this paragraph by the legislative body of any participating municipality. In case any
447 such municipality fails to pay over to the treasurer of the joint enterprise the amount of its
448 apportionment within the time specified in the agreement for such payment, the treasurer of such
449 municipality shall forthwith certify such amount to the board of assessors of his municipality
450 who shall include such amount in the tax levy next following the certification, and the amount
451 when raised shall be paid over by the treasurer of such municipality to the treasurer of the joint
452 enterprise.

453 The joint airport commission shall determine the amounts necessary to be raised to
454 maintain and operate the joint airport and shall apportion the balance needed, over and above the
455 amount available for such purposes in the joint airport fund, among the several participating
456 municipalities on the basis set forth in the agreement and shall promptly thereafter notify the
457 treasurers of said municipalities of such apportionment. Every treasurer so notified shall,
458 annually in December, certify the amount of such apportionment to the board of assessors of his
459 municipality, who shall, unless funds are available from appropriations or otherwise, include
460 such amount in the tax levy of the following year, and the amount of such apportionment shall be
461 paid over by the treasurer of such municipality to the treasurer of the joint enterprise within the
462 time specified in the agreement for such payment.

463 Action by a participating municipality in establishing, maintaining and operating a joint
464 airport shall be authorized to the same extent and subject to the same provisions of law as in the
465 case of like action by such municipality independently with respect to an airport, except as
466 otherwise provided in this section and except that the joint airport commission is authorized to
467 acquire property by eminent domain, purchase or otherwise for purposes of the joint airport in
468 the names of the participating municipalities but only within the territorial limits of such
469 municipalities, and each of such municipalities shall have the same interest in the property so
470 acquired that it has in the joint airport under the agreement.

471 Section 38. Notwithstanding any general or special law to the contrary, no city or town
472 shall limit or restrict the authority of an airport commission, as established by this chapter and

473 specifically with regard to an airport commission's authority over the management, operation,
474 and control of an airport, through charter provision, local ordinance or by-law, or regulation.

475 SECTION 38 Chapter 90 of the General Laws, as so appearing, is hereby further
476 amended by striking out section 52, and inserting in place thereof the following section:-

477 Section 52. If any provision of said sections 35 to 51, inclusive, is declared
478 unconstitutional or the application thereof to any person or circumstance is held invalid, the
479 validity of the remaining provisions thereof and the application of such provision to other
480 persons and circumstances shall not be affected thereby. These sections, being necessary for the
481 welfare of the commonwealth and its inhabitants, shall be liberally construed to effect the
482 purposes hereof.