

SENATE No. 475

The Commonwealth of Massachusetts

SENATE, April 5, 1939.

The committee on State Administration, to whom was referred the petition (accompanied by bill, House, No. 1280) of Crocker Snow and others for various amendments of the laws relating to the operation of aircraft, report the accompanying bill (Senate, No. 475).

For the committee,

CORNELIUS F. HALEY.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Thirty-Nine.

AN ACT FURTHER REVISING THE LAWS RELATIVE TO AVIATION.

1 *Whereas*, The deferred operation of this act would
2 cause substantial inconvenience, therefore it is
3 hereby declared to be an emergency law, necessary
4 for the immediate preservation of the public safety
5 and convenience.

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

1 SECTION 1. Section seventeen of chapter six of
2 the General Laws, as most recently amended by
3 section one of chapter four hundred and seventy-
4 five of the acts of nineteen hundred and thirty-five,
5 is hereby further amended by striking out, in the
6 ninth line, the word "and" and inserting in place
7 thereof a comma, and by inserting after the word
8 "commission" in the tenth line the words: — and
9 the Massachusetts aeronautics commission, — so as
10 to read as follows: — *Section 17.* The armory com-
11 missioners, the art commission, the commission on
12 administration and finance, the commissioner of
13 state aid and pensions, the commissioners on uni-
14 form state laws, the public bequest commission, the

15 state ballot law commission, the board of trustees
16 of the Soldiers' Home in Massachusetts, the milk
17 regulation board, the alcoholic beverages control
18 commission, the state planning board, the trustees
19 of the state library, the state racing commission, the
20 Greylock reservation commission and the Massa-
21 chusetts aeronautics commission shall serve under
22 the governor and council, and shall be subject to
23 such supervision as the governor and council deem
24 necessary or proper.

1 SECTION 2. Section six of chapter sixteen of the
2 General Laws, as amended by section one of chap-
3 ter four hundred and eighteen of the acts of nine-
4 teen hundred and thirty-five, is hereby further
5 amended by striking out, in the second line, the
6 words "sections thirty-one and forty-one" and
7 inserting in place thereof the words:—section
8 thirty-one, — so as to read as follows:— *Section 6.*
9 Except as otherwise provided by section thirty-one
10 of chapter ninety and section sixty of chapter one
11 hundred and forty, all rules and regulations within
12 the jurisdiction of the department shall be drafted
13 by the commissioner and associate commissioners
14 and shall take effect when approved by them, and
15 at such time as they shall designate. Said com-
16 missioner and associate commissioners shall also
17 have power to make all needful rules and regulations
18 for carrying out the provisions of law relating to
19 the department.

1 SECTION 3. Chapter ninety of the General Laws
2 is hereby amended by striking out sections thirty-
3 five to forty-three, inclusive, and sections forty-four

4 to fifty, inclusive, inserted by section two of said
5 chapter four hundred and eighteen and as amended
6 by sections one to eight, inclusive, and sections ten
7 to twelve, inclusive, of chapter four hundred and
8 seventeen of the acts of nineteen hundred and thirty-
9 eight, and section forty-three A, inserted by section
10 nine of said chapter four hundred and seventeen,
11 and inserting in place thereof the nineteen following
12 new sections: —

13 *Section 35.* The following words and phrases
14 used in sections thirty-five to fifty-three, inclusive,
15 shall have the following meanings, unless a different
16 meaning is clearly apparent from the language or
17 context, or unless such construction is inconsistent
18 with the manifest intention of the legislature: —

19 “Aeronautics”, the act or practice of the art and
20 science of transportation by aircraft, and operation,
21 construction, repair or maintenance of aircraft, air-
22 ports, landing fields, landing strips, air navigation
23 facilities or air instruction.

24 “Aircraft”, any contrivance now known or here-
25 after invented, used, or designed for navigation of,
26 or flight in the air, except a parachute or other con-
27 trivance designed for such navigation and used
28 primarily as safety equipment.

29 “Air instruction”, the imparting of aeronautical
30 information in any air school, flying club, or by an
31 aviation instructor.

32 “Airman”, any individual including the one in
33 command, and any pilot including a student, me-
34 chanic, or member of the crew, who engages in the
35 navigation of aircraft while under way, or any indi-
36 vidual who is in charge of the inspecting, overhauling
37 or repair of aircraft or aircraft engines, or any para-
38 chute rigger and repairman.

39 “Airport”, any area, either land or water, which
40 is used or which is made available for the landing
41 and take-off of aircraft, and which provides facilities
42 for the shelter, supply and repair of aircraft, and
43 which meets the minimum requirements as to size,
44 design, surface, marking, equipment, and manage-
45 ment as may from time to time be provided by the
46 commission.

47 “Air school”, any person engaged in giving in-
48 struction, or offering to give instruction in aero-
49 nautics, either in flying or ground subjects, or both,
50 for or without hire or reward, and advertising, repre-
51 senting, or holding himself out as giving or offering
52 to give such instruction.

53 “Civil aircraft”, any aircraft other than a public
54 aircraft.

55 “Commission”, the Massachusetts aeronautics
56 commission established by section thirty-six.

57 “Glider”, a motorless heavier than air aircraft.

58 “Landing field”, any area, either of land or water,
59 which is used or which is made available for the
60 landing and take-off of aircraft, which may or which
61 may not provide facilities for the shelter, supply and
62 repair of aircraft, and which meets the minimum
63 requirements as to size, design, surface, marking,
64 equipment and management as may from time to
65 time be provided by the commission.

66 “Landing strip”, an area, either of land or water,
67 which is available for the landing and take-off of
68 aircraft, having not less than two hundred feet of
69 usable width and not less than eight hundred feet
70 of usable length.

71 “Navigable air space”, air space above the mini-
72 mum safe altitudes of flight prescribed by regulation

73 by the commission. Such navigable air space is sub-
74 ject to a public right of air navigation in conformity
75 with the provisions of this chapter and with the
76 regulations and air traffic rules issued by the com-
77 mission.

78 "Person", any individual, association, copartner-
79 ship, firm, company, corporation, or other associa-
80 tion of individuals.

81 "Public aircraft", an aircraft used exclusively in
82 the governmental service, including military and
83 naval aircraft, or of any state or territory thereof.

84 *Section 36.* There shall be a commission to be
85 known as the Massachusetts aeronautics commis-
86 sion, consisting of the commissioner of public safety,
87 the commissioner of public works and five members
88 to be appointed by the governor. Of the members
89 so appointed four shall be persons having practical
90 experience in aeronautics or aviation. Of the ap-
91 pointive members originally appointed hereunder,
92 one shall be appointed for a term of one year, one
93 for a term of two years, one for a term of three years,
94 one for a term of four years and one for a term of
95 five years, and thereafter their successors shall be
96 appointed in like manner for terms of five years
97 each. Each appointive member of the commission
98 shall serve until the qualification of his successor.
99 The governor shall from time to time designate
100 one of the appointive members of the commission
101 to act as chairman. Except as otherwise provided
102 in section thirty-seven, the members of the commis-
103 sion shall serve without compensation; but they
104 and the employees of the commission shall be re-
105 imbursed for necessary traveling and other expenses

106 and disbursements incurred or expended in the
107 performance of their official duties.

108 *Section 37.* The commission shall employ a di-
109 rector, who may be a member of the commission,
110 and may employ such other employees and assist-
111 ants as it deems necessary for the proper transaction
112 of its business. The director shall receive a salary
113 of five thousand dollars, and shall not be subject
114 to chapter thirty-one and the rules and regulations
115 made thereunder.

116 *Section 38.* The commission shall be provided
117 with suitable offices in the city of Boston and else-
118 where within the commonwealth, as the commission
119 may determine, and may expend for office furniture
120 and furnishings, stationery, printing, incidental ex-
121 penses and other expenses necessary or reasonable
122 in connection with the enforcement of sections
123 thirty-five to fifty-three, inclusive, and, in general,
124 the promotion of aeronautics within the common-
125 wealth, such sums as may be appropriated therefor.

126 *Section 39.* The commission shall have super-
127 vision and control over all aeronautical activities
128 and facilities within the commonwealth, which au-
129 thority shall be deemed to include supervision and
130 control over all airports, landing fields, landing
131 strips, air instruction, air markings, air beacons
132 and all air navigation facilities within the common-
133 wealth.

134 The commission from time to time may make,
135 and thereafter amend or repeal, reasonable rules
136 and regulations relative to such activities and facili-
137 ties; provided, that no rule or regulation made
138 under authority of any provision of this section
139 shall be inconsistent with the then current federal

140 legislation governing aeronautics and the rules and
141 regulations duly promulgated thereunder, nor shall
142 any such rule or regulation apply to airports, land-
143 ing fields, air beacons or other air navigation facili-
144 ties owned or operated within the commonwealth
145 by the federal government. In no case shall the
146 commission unnecessarily duplicate by its rules and
147 regulations the regulatory activities of the Civil
148 Aeronautics Authority of the United States.

149 *Section 40.* The commission shall foster air
150 commerce within this commonwealth in accordance
151 with sections thirty-five to fifty-three, inclusive,
152 and for such purpose shall:—

153 (a) Encourage the establishment of airports,
154 civil airways and other air navigation facilities.

155 (b) Make recommendations to the governor and
156 to the general court as to necessary legislation or
157 action pertaining thereto.

158 (c) Study the possibilities for the development
159 of air commerce and the aeronautical industry and
160 trade within the commonwealth, and collect and
161 disseminate information relative thereto.

162 (d) Advise with the Civil Aeronautics Authority
163 and other agencies of the federal government, and
164 with agencies in the executive branch of the govern-
165 ment of this commonwealth, in carrying forward
166 such research and development work as tends to
167 create improved air navigation facilities.

168 (e) Exchange with said Civil Aeronautics Author-
169 ity, and with other state governments through exist-
170 ing governmental channels information pertaining to
171 civil air navigation.

172 (f) Co-operate in the establishment and creation
173 of civil airways and air navigation facilities with
174 the department of public works; and

175 (g) Enforce the regulations promulgated as pro-
176 vided under said sections with the assistance and
177 co-operation of state and local authorities charged
178 with the enforcement of law in their respective
179 jurisdictions.

180 *Section 41.* The commission or any member
181 thereof shall have power to hold investigations, in-
182 quiry and hearings concerning matters covered
183 by any provision of sections thirty-five to fifty-
184 three, inclusive, and concerning all accidents in
185 connection with aviation within the commonwealth.
186 Due notice of all such hearings shall be given, and
187 all such hearings shall be open to the public. Each
188 commissioner shall have power to administer oaths
189 and affirmations, certify to all official acts, issue
190 subpoenas and compel the attendance and testi-
191 mony of witnesses and the production of papers,
192 books and documents.

193 *Section 42.* The superior court shall have juris-
194 diction in equity to enforce any lawful rule or order
195 made by the commission or any of its members
196 under any provision of sections thirty-five to fifty-
197 three, inclusive, and may compel the attendance
198 and the giving of testimony by witnesses before the
199 commission, in the same manner and to the same
200 extent as before said court.

201 *Section 43.* The commission shall keep on file
202 for public inspection, at the office of the state sec-
203 retary and also at its principal office, a copy of all
204 its rules and regulations, as amended. Annually,
205 on or before the thirty-first day of December, the
206 commission shall make to the governor and council
207 and to the general court a full report in writing
208 covering the period ending with the first day of
209 said month of December, and may submit with

210 such report such recommendations pertaining to its
211 affairs as it may deem advisable, together with
212 drafts of such legislation as it may recommend.

213 *Section 44.* Any person failing to comply with
214 any requirement, or violating any provision, of sec-
215 tions thirty-five to fifty-three, inclusive, or the rules
216 and regulations for the enforcement of said sections
217 made by the commission and in full force and effect,
218 shall be punished by a fine of not less than ten nor
219 more than five hundred dollars, or by imprisonment
220 for not less than one month nor more than six
221 months, or both. Whoever operates an aircraft
222 while under the influence of intoxicating liquor shall
223 be punished by imprisonment for not less than one
224 month nor more than two years.

225 *Section 45.* Any person aggrieved by any regu-
226 lation, ruling, decision or order of the commission,
227 may, within ten days of the effective date of such
228 regulation, ruling, decision or order, appeal to the
229 superior court for the purpose of having the rea-
230 sonableness or lawfulness thereof inquired into and
231 determined.

232 *Section 46.* The superior court shall have juris-
233 diction in equity to enforce sections thirty-five to
234 fifty-three, inclusive, and rules, regulations and
235 orders made thereunder by the commission, and
236 to restrain the violation thereof.

237 *Section 47.* Flight of aircraft over the lands and
238 waters of this commonwealth, within the navigable
239 air space as defined in section thirty-five, is lawful
240 unless at such a low altitude as to interfere with the
241 then existing use to which the land or water or space
242 over the land or water is put by the owner or occu-
243 pant, or unless so conducted as to be imminently

244 dangerous to persons or property lawfully on the
245 land or water beneath.

246 *Section 48.* The public safety requiring, and the
247 advantages of uniform regulation making it desir-
248 able in the interest of aeronautical progress, that a
249 person engaging within this commonwealth in navi-
250 gating or operating aircraft in any form of naviga-
251 tion should have the qualifications necessary for
252 obtaining and holding a pilot's license, permit or
253 certificate, issued by the Civil Aeronautics Authority
254 of the United States or other proper licensing author-
255 ity, no person shall operate or navigate any aircraft
256 in this commonwealth unless such person is the
257 holder of an appropriate effective pilot's license,
258 permit or certificate, issued by said authority; pro-
259 vided, that this restriction shall not apply to persons
260 operating military aircraft of the United States or
261 possessions thereof, public aircraft of any state or
262 territory, or any aircraft licensed by a foreign
263 country with which the United States has a recipro-
264 cal agreement covering the operation of such licensed
265 aircraft, nor to glider pilots licensed by the commis-
266 sion in accordance with such regulations as they may
267 prescribe, nor to persons operating model aircraft,
268 nor to any person piloting an aircraft which is
269 equipped with fully functioning dual controls when
270 a certificated instructor is in full charge of one set of
271 said controls and such flight is solely for instruction
272 or the demonstration of said aircraft to a bona fide
273 prospective purchaser thereof.

274 *Section 49.* The public safety requiring, and the
275 advantages of uniform regulation making it desir-
276 able in the interest of aeronautical progress, that
277 aircraft operated within this commonwealth should

278 conform with respect to design, construction and
279 air-worthiness to the standards prescribed by the
280 United States government with respect to naviga-
281 tion of civil aircraft subject to its jurisdiction, no
282 aircraft shall be operated or navigated within the
283 commonwealth unless such aircraft has an appro-
284 priate effective license, permit or certificate, issued
285 by the Civil Aeronautics Authority of the United
286 States or other proper licensing authority and is
287 registered by said authority; provided, that this
288 restriction shall not apply to military aircraft of
289 the United States or possessions thereof, public air-
290 craft of any state or territory, aircraft licensed by
291 a foreign country with which the United States has
292 a reciprocal agreement covering the operation of
293 such licensed aircraft, nor to model aircraft oper-
294 ated in accordance with such regulations as the
295 commission may prescribe, nor to gliders licensed
296 by the commission in accordance with such regu-
297 lations as they may prescribe; and provided, fur-
298 ther, that the commission may waive the provisions
299 of this section for the purpose of inspection or test
300 flights of a non-passenger carrying aircraft.

301 *Section 50.* All resident airmen, and owners and
302 operators, or owners or operators, of all aircraft,
303 shall register the federal certificates of said airmen
304 and of said aircraft in such manner as the commis-
305 sion may by regulation prescribe. Non-resident
306 airmen, and owners and operators, or owners or
307 operators, of aircraft, may operate within the com-
308 monwealth without such registration for not more
309 than ten consecutive days in any calendar year.

310 *Section 51.* The operation within this common-
311 wealth by any person, by himself or his agent, of

312 any aircraft, whether registered or unregistered, and
313 whether with or without a license, permit or certifi-
314 cate to operate, shall be deemed equivalent to an
315 appointment by such person of the chairman of the
316 commission, or his successor in office, to be his true
317 and lawful attorney upon whom may be served all
318 lawful processes in any action or proceeding against
319 him growing out of any accident or collision in which
320 he may be involved while operating aircraft within
321 the commonwealth, and such operation shall be a
322 signification of agreement by such person that any
323 lawful process against him which is served upon
324 said chairman of the commission, or his successor in
325 office, as such attorney shall be of the same legal
326 force and validity as if served on him personally,
327 and that said chairman of the commission, and his
328 successor in office, shall continue to be his said
329 attorney so long as any liability on account of such
330 an accident or collision remains outstanding against
331 him. Sections three A to three E, inclusive, shall
332 apply to such service.

333 *Section 52.* Airports, landing fields and landing
334 strips for aircraft may be established from time to
335 time and may be maintained by the commission, or
336 by other public officials in charge of any land
337 owned or controlled by the commonwealth or by any
338 city, town, county or district thereof, or, in case two
339 or more political subdivisions of the commonwealth
340 vote to form a district for any or all purposes of this
341 section, by such district.

342 *Section 53.* If any provision of said sections
343 thirty-five to fifty-three, inclusive, is declared un-
344 constitutional or the application thereof to any
345 person or circumstance is held invalid, the validity

346 of the remaining provisions thereof and the appli-
347 cation of such provision to other persons and cir-
348 cumstances shall not be affected thereby.

1 SECTION 4. This act shall not be deemed to
2 affect any appeal arising under any provision of
3 sections thirty-five to fifty, inclusive, of chapter
4 ninety of the General Laws, as in effect immedi-
5 ately prior to the effective date of this act, nor to
6 any right of appeal thereunder existing on said
7 effective date, and said appeals, subject to all per-
8 tinent provisions of law, may be prosecuted before
9 the commission hereinbefore referred to as though
10 they had been taken under this act.

1 SECTION 5. Rules and regulations in force under
2 authority of any provision of said sections thirty-
3 five to fifty, inclusive, as in force immediately prior
4 to the effective date of this act shall continue in
5 full force and effect until the promulgation of rules
6 and regulations issued under authority of sections
7 thirty-five to fifty-three, inclusive, of chapter ninety
8 of the General Laws, as appearing in section three
9 of this act.

1 SECTION 6. The unpaid advisory board of aero-
2 nautical experts in the department of public works,
3 as existing immediately prior to the effective date
4 of this act, is hereby abolished.

