

**HOUSE . . . . No. 2229**

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**The Commonwealth of Massachusetts**

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HOUSE OF REPRESENTATIVES, June 20, 1935.

The committee on Ways and Means, to whom was referred the Bill establishing a uniform aeronautical code (House, No. 2049), report that the same ought to pass with an amendment substituting therefor a new draft (House, No. 2229).

For the committee,

CHRISTIAN A. HERTER.

## The Commonwealth of Massachusetts

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

An Act establishing a Uniform Aeronautical Code.

*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 six of chapter sixteen of the  
2 General Laws, as appearing in the Tercentenary  
3 Edition, is hereby amended by striking out, in the  
4 second line, the word "fifty-eight" and inserting in  
5 place thereof the word: — forty-one, — so as to read  
6 as follows: — *Section 6.* Except as otherwise pro-  
7 vided by sections thirty-one and forty-one of chapter  
8 ninety and section sixty of chapter one hundred and  
9 forty, all rules and regulations within the jurisdic-  
10 tion of the department shall be drafted by the com-  
11 missioner and associate commissioners and shall take  
12 effect when approved by them, and at such time as  
13 they shall designate. Said commissioner and asso-  
14 ciate commissioners shall also have power to make  
15 all needful rules and regulations for carrying out  
16 the provisions of law relating to the department.

1 SECTION 2. Chapter ninety of the General Laws  
2 is hereby amended by striking out sections thirty-  
3 five to sixty, inclusive, as amended, and inserting  
4 in the place thereof the following: —  
5 *Section 35.* The following words and phrases

6 used in sections thirty-five to fifty, inclusive, shall  
7 have the following meanings, unless a different  
8 meaning is clearly apparent from the language or  
9 context, or unless such construction is inconsistent  
10 with the manifest intention of the legislature:—

11 “Aeronautics”, the act or practice of the art and  
12 science of transportation by aircraft, and operation,  
13 construction, repair or maintenance of aircraft, air-  
14 ports, landing fields, landing strips, air navigation  
15 facilities or air instruction.

16 “Aircraft”, any contrivance now known or here-  
17 after invented, used, or designed for navigation of,  
18 or flight in the air, except a parachute or other con-  
19 trivance designed for such navigation and used pri-  
20 marily as safety equipment.

21 “Air instruction”, the imparting of aeronautical  
22 information in any air school, flying club, or by an  
23 aviation instructor.

24 “Airman”, any individual including the one in  
25 command, and any pilot including a student, me-  
26 chanic, or member of the crew, who engages in the  
27 navigation of aircraft while under way, or any in-  
28 dividual who is in charge of the inspecting, over-  
29 hauling or repair of aircraft or aircraft engines, or  
30 any parachute rigger and repairman.

31 “Airport”, any area, either land or water, which  
32 is used or which is made available for the landing  
33 and take-off of aircraft, and which provides facili-  
34 ties for the shelter, supply and repair of aircraft,  
35 and which meets the minimum requirements as to  
36 size, design, surface, marking, equipment, and man-  
37 agement as may from time to time be provided by  
38 the registrar.

39 “Air school”, any person engaged in giving in-

40 struction, or offering to give instruction in aero-  
41 nautics, either in flying or ground subjects, or both,  
42 for or without hire or reward, and advertising,  
43 representing, or holding himself out as giving or  
44 offering to give such instruction.

45 "Civil aircraft", any aircraft other than a public  
46 aircraft.

47 "Glider", a motorless heavier than air aircraft.

48 "Landing field", any area, either of land or water,  
49 which is used or which is made available for the  
50 landing and take-off of aircraft, which may or which  
51 may not provide facilities for the shelter, supply  
52 and repair of aircraft, and which meets the minimum  
53 requirements as to size, design, surface, marking,  
54 equipment and management as may from time to  
55 time be provided by the registrar.

56 "Landing strip", an area, either of land or water,  
57 which is available for the landing and take-off of  
58 aircraft, having not less than two hundred feet of  
59 usable width and not less than eight hundred feet  
60 of usable length.

61 "Navigable air space", air space above the mini-  
62 mum safe altitudes of flight prescribed by regulation  
63 by the registrar. Such navigable air space is subject  
64 to a public right of air navigation in conformity  
65 with the provisions of this chapter and with the  
66 regulations and air traffic rules issued by the registrar.

67 "Person", any individual, association, copartner-  
68 ship, firm, company, corporation, or other associa-  
69 tion of individuals.

70 "Public aircraft", an aircraft used exclusively in  
71 the governmental service, including military and  
72 naval aircraft, or of any state or territory thereof.

73 *Section 36.* The public safety requiring, and the

74 advantages of uniform regulation making it desir-  
75 able in the interest of aeronautical progress, that  
76 a person engaging within this commonwealth in  
77 navigating or operating aircraft in any form of  
78 navigation shall have the qualifications necessary  
79 for operating and holding a pilot's license, issued  
80 by the department of commerce of the United  
81 States or other proper licensing authority, it shall  
82 be unlawful for any person to operate or navigate  
83 any aircraft in this commonwealth unless such  
84 person is the holder of an appropriate effective  
85 pilot's license or permit, issued by the said depart-  
86 ment or authority; provided, that this restriction  
87 shall not apply to those persons operating military  
88 aircraft of the United States or possessions thereof,  
89 public aircraft of any state or territory, or any  
90 aircraft licensed by a foreign country with which  
91 the United States has a reciprocal agreement cov-  
92 ering the operation of such licensed aircraft, nor to  
93 glider pilots who are licensed by the registrar in  
94 accordance with such regulations as he may prescribe.

95 *Section 37.* The public safety requiring, and the  
96 advantages of uniform regulation making it desir-  
97 able in the interest of aeronautical progress, that  
98 aircraft operated within this commonwealth should  
99 conform with respect to design, construction and  
100 air-worthiness to the standards prescribed by the  
101 United States government with respect to naviga-  
102 tion of civil aircraft subject to its jurisdiction, it  
103 shall be unlawful to operate or navigate any air-  
104 craft within the commonwealth, unless such air-  
105 craft has an appropriate effective license, issued  
106 by the department of commerce of the United  
107 States or other proper licensing authority and is

108 registered by said department or other authority;  
109 provided, that this restriction shall not apply to  
110 military aircraft of the United States or possessions  
111 thereof, public aircraft of any state or territory,  
112 aircraft licensed by a foreign country with which  
113 the United States has a reciprocal agreement cover-  
114 ing the operation of such licensed aircraft nor to  
115 gliders which are licensed by the registrar in ac-  
116 cordance with such regulations as he may prescribe;  
117 and, provided further, that the registrar may at his  
118 discretion waive the provisions of this section in  
119 the interest solely for inspection or test purposes,  
120 of a non-passenger carrying flight.

121 *Section 38.* All resident airmen and owners and/or  
122 operators of all aircraft shall register the federal  
123 licenses of said airmen and of said aircraft in such  
124 manner as the registrar may by regulation prescribe,  
125 and the registrar is hereby authorized to issue a  
126 certificate of approval in each case. Non-resident  
127 airmen and owners and/or operators of aircraft may  
128 operate within the commonwealth without such  
129 registration for ten days in any calendar year. No  
130 aircraft carrying mail, passenger or express for hire,  
131 except in the case of an emergency, shall land upon  
132 or take off from any area in the commonwealth,  
133 other than an airport, landing field or landing strip;  
134 provided, that no license, rule, order or regulation  
135 promulgated under the authority of sections thirty-  
136 five to fifty shall apply to airports, landing fields,  
137 air beacons or other air navigation facilities owned  
138 or operated by the government of the United States  
139 or by this commonwealth. The registrar is hereby  
140 authorized to issue a certificate of his approval in  
141 each case.

142 *Section 39.* The operation by any person, by  
143 himself or his agent, of any aircraft, whether regis-  
144 tered or unregistered, and with or without a license  
145 to operate, within this commonwealth, shall be  
146 deemed equivalent to an appointment by such per-  
147 son of the registrar, or his successor in office, to be  
148 his true and lawful attorney upon whom may be  
149 served all lawful processes in any action or proceed-  
150 ing against him growing out of any accident or  
151 collision in which he may be involved while oper-  
152 ating aircraft within the commonwealth, and such  
153 operation shall be a signification of agreement by  
154 such person that any lawful process against him  
155 which is served upon the registrar, or his successor  
156 in office, as such attorney shall be of the same legal  
157 force and validity as if served on him personally,  
158 and that the registrar, and his successor in office,  
159 shall continue to be his said attorney so long as any  
160 liability on account of such an accident or collision  
161 remains outstanding against him. Sections three A  
162 to three E, inclusive, shall apply to such service.

163 *Section 40.* The certificate of the license required  
164 for pilots shall be kept in the personal possession of  
165 the licensee when he is operating aircraft within this  
166 commonwealth and must be presented for inspec-  
167 tion upon the demand of any passenger, or any peace  
168 officer of this commonwealth, any authorized official  
169 or employee of the registry of motor vehicles or any  
170 official, manager, or person in charge of any air-  
171 port in this commonwealth upon which he shall  
172 land. The aircraft license must be carried in the  
173 aircraft at all times and must be conspicuously  
174 posted therein where it may be readily seen by  
175 passengers or inspectors; and said license must be

176 presented for inspection upon the demand of any  
177 passenger, or any peace officer of this common-  
178 wealth, or authorized official or employee of the  
179 registry of motor vehicles, or any official, manager  
180 or person in charge of any airport in this common-  
181 wealth upon which it shall land.

182 *Section 41.* The registrar is hereby empowered to  
183 prescribe and enforce such rules and regulations as  
184 he may deem necessary and advisable for the pub-  
185 lic safety and for the promotion of aeronautics  
186 governing the location, designing, laying out, build-  
187 ing, equipping, operation, use and management of  
188 all airports, landing fields, landing strips, air in-  
189 struction, air markings, air beacons or other air  
190 navigation facilities within the commonwealth. The  
191 registrar is further empowered to prescribe and  
192 enforce such rules and regulations as he may deem  
193 necessary and advisable for the public safety and  
194 for the safety of aircraft and airmen; provided,  
195 that no rule or regulation prescribed by the regis-  
196 trar under this section shall be inconsistent with  
197 the then current federal legislation governing aero-  
198 nautics and the regulations duly promulgated there-  
199 under, and provided, further, that all rules and  
200 regulations prescribed by the registrar under the  
201 authority of this section shall be subject to approval  
202 and shall take effect in the manner prescribed by  
203 section six of chapter sixteen.

204 *Section 42.* Airports, landing fields and landing  
205 strips for aircraft may be established from time to  
206 time and may be maintained by the department,  
207 or by other public officials in charge of any land  
208 owned or controlled by the commonwealth or by  
209 any city, town or district thereof. Such landing

210 places shall, in respect to design, laying out, loca-  
211 tion, building, equipping, operation, use and man-  
212 agement be governed by the rules and regulations  
213 promulgated by the registrar under the provisions  
214 of section forty-one.

215 *Section 43.* The owner and/or operator of any  
216 aircraft which is in any manner involved in an acci-  
217 dent in which any person is killed or injured shall  
218 forthwith report in writing to the registrar. When  
219 an aircraft shall have been damaged in any structural  
220 part, a copy of the accident report required by the  
221 federal department of commerce shall be submitted  
222 to the registrar by the owner or operator thereof.  
223 Whenever the death of any person results from any  
224 such accident the registrar may suspend forthwith  
225 the right of the person or persons involved in said  
226 accident to operate. The registrar shall investigate  
227 the cause of any accident within the commonwealth  
228 in which a civil aircraft is involved.

229 *Section 44.* The registrar may suspend, or after  
230 due hearing revoke, an airman's right to operate in  
231 this commonwealth for the violation of any of the  
232 provisions of sections thirty-five to fifty, or for the  
233 violation of any rule or regulation for the enforce-  
234 ment of said sections made by the registrar. The  
235 registrar may also suspend, or after due hearing  
236 revoke, the right of operation of an aircraft in this  
237 commonwealth if it is found to be unairworthy or  
238 is operated in violation of said sections or in viola-  
239 tion of any rule or regulation made by the registrar  
240 for the enforcement thereof.

241 *Section 45.* The registrar shall appoint an ad-  
242 visory board of aeronautical experts which shall  
243 consist of five members, who shall be designated in

244 their original appointments to serve respectively for  
245 one, two, three, four and five years. Upon the  
246 expiration of the term of office of a member, his  
247 successor shall be appointed by the registrar for  
248 five years. The duties of such board shall be to  
249 advise with the registrar on matters pertaining to  
250 aviation, and to promote and encourage aviation.  
251 Such board shall meet at least bi-monthly and shall  
252 annually submit to the commissioner such recom-  
253 mendations as it may deem necessary or advisable.

254 *Section 46.* Any person failing to comply with  
255 the requirements of, or violating any of the provi-  
256 sions of sections thirty-five to fifty, or the rules  
257 and regulations for the enforcement of said sections  
258 made by the registrar, shall be punished by a fine  
259 of not less than ten nor more than five hundred  
260 dollars, or by imprisonment for not less than one  
261 month nor more than six months, or both. Who-  
262 ever operates an aircraft while under the influence  
263 of intoxicating liquor shall be punished by impris-  
264 onment for not less than one month nor more than  
265 two years.

266 *Section 47.* Any person aggrieved by any regu-  
267 lation, ruling or decision of the registrar, relative to  
268 the use, operation, and registration of aircraft, or  
269 by an order of the registrar, may appeal as provided  
270 in section twenty-eight, and the provisions of said  
271 section shall apply to such appeal.

272 *Section 48.* Flight of aircraft over the lands and  
273 waters of this commonwealth, within the navigable  
274 air space as hereinbefore defined, is lawful unless  
275 at such a low altitude as to interfere with the then  
276 existing use to which the land or water or space  
277 over the land or water is put by the owner or occu-

278 pant, or unless so conducted as to be imminently  
279 dangerous to persons or property lawfully on the  
280 land or water beneath.

281 *Section 49.* The superior court shall have juris-  
282 diction in equity to enforce the provisions of sec-  
283 tions thirty-five to fifty, and rules, regulations and  
284 orders made thereunder, and to restrain the viola-  
285 tion thereof.

286 *Section 50.* If any provision of said sections is  
287 declared unconstitutional or the application thereof  
288 to any person or circumstance is held invalid, the  
289 validity of the remaining provisions thereof and the  
290 application of such provision to other persons and  
291 circumstances shall not be affected thereby.

