

HOUSE BILL REPORT

ESHB 1562

As Amended by the Senate

Title: An act relating to the adoption of regulations by airport operators for airport rental, use, and collection of charges.

Brief Description: Changing provisions relating to the adoption of regulations by airport operators.

Sponsors: By House Committee on Transportation (Originally sponsored by Representatives Scott, Mulliken and G. Chandler).

Brief History:

Committee Activity:

Transportation: 2/16/99, 2/23/99 [DPS].

Floor Activity:

Passed House: 3/16/99, 96-0.

Senate Amended.

Passed Senate: 4/12/99, 42-3.

Brief Summary of Engrossed Substitute Bill

- Aircraft owner must be notified by the airport operator about delinquent charges before impounding aircraft.
- Must make reasonable attempts to locate aircraft owner.
- Allows lawsuit by owner to redeem impounded aircraft before auction.

HOUSE COMMITTEE ON TRANSPORTATION

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 28 members: Representatives Fisher, Democratic Co-Chair; K. Schmidt, Republican Co-Chair; Cooper, Democratic 1st Vice Chair; Edwards, Democratic 2nd Vice Chair; Ericksen, Republican Vice Chair; Hankins, Republican Vice Chair; Buck; G. Chandler; DeBolt; Fortunato; Haigh; Hatfield; Hurst; Lovick;

McDonald; Mielke; Mitchell; Morris; Murray; Ogden; Pflug; Radcliff; Romero; Schindler; Schual-Berke; Scott; Skinner and Wood.

Staff: Paul Johnson (786-7839).

Background:

Airports are generally owned and operated by port districts, cities, and counties. Airport operators may adopt regulations necessary for use of airport facilities and collecting airport charges.

The regulations allow airport personnel to take reasonable measures to secure an aircraft in the airport to prevent its removal if the owner fails to pay airport charges after 60 days. When the aircraft is impounded, personnel must attach a notice to the aircraft and mail a copy of the notice to the owner's last known address by both registered mail and by first class mail.

If the account is not paid in full within 180 days from the date the notice was attached, the aircraft may be sold at a public auction to satisfy the airport charges. The notice must state the time and place of the sale.

The airport may adopt regulations that allow airport personnel to place aircraft in an area for storage. Reasonable costs for any such procedure shall be paid by the aircraft's owner.

The aircraft will be considered abandoned if it has not been released to the owner under the bonding provisions within 180 days after the owner is notified.

Before the aircraft is sold, the owner shall be given at least 20 days notice of the sale by registered mail and by newspaper. The notice shall include a reasonable description of the aircraft to be sold, the time of sale, and that the airport operator may become a purchaser at the sale.

The airport regulations, including any and all impoundment rules for delinquent charges, must be posted in the airport manager's office.

Summary of Bill:

Reasonable measures to secure aircrafts may be taken if the owner fails to pay the airport charges after (1) being notified the charges are owing, and (2) giving the owner a right to contest those charges. In addition, action can also be taken if the owner fails to commence legal proceedings. The 60-day waiting period before impoundment is removed.

In the case where an aircraft owner's address is unknown, the airport operator must make reasonable effort to notify the owner before securing the aircraft.

The airport owner must make a reasonable attempt to send a copy of the notice to the owner's last known address by registered mail, and a reasonable attempt to send an additional copy by first class mail.

The waiting period for payment is reduced to 90 days from 180 days after the notice was posted. The original notice no longer must state the time and place of the sale.

Procedures for personnel to move aircraft are clarified. An aircraft may be moved to areas under the operator's control for storage purposes. The requirement that moving costs be reasonable is eliminated.

To regain possession of an aircraft, an owner may post money in a trust account which terminates following either a judicial resolution in a court or upon a written agreement.

The 20-day notice of sale by registered mail shall be made only if the owner's name and address are known.

Before the aircraft is sold, any person seeking to redeem an impounded aircraft may commence a lawsuit to contest the validity of the impoundment or the airport charges owed. The lawsuit must begin within 10 days from the date of notification under the statute. If not commenced within 10 days then the right to a hearing is waived and the owner is liable for any airport charges owed to the airport operator. If there is litigation, the prevailing party is entitled to attorneys' fees and costs.

If no one purchases the aircraft at a sale, if the aircraft is not removed from the premises, or if other arrangements are not made within 10 days of the sale, then the airport operator shall gain title to the aircraft.

An business and occupation tax exemption applies to airports which: (1) keep aircraft owned by non-residents; (2) are jointly owned by Washington and an out-of-state entity; and (3) the non-resident aircraft owner provides the Department of Revenue with proof that all taxes and licensing fees are paid to the state where the owner resides.

EFFECT OF SENATE AMENDMENT(S): Under current revenue distribution laws, 90 percent of the excise tax collected for aircraft registration is deposited in the General Fund and 10 percent is deposited into the Aeronautics Account of the Transportation Fund. There is a \$4 fee attached to every aircraft registration which is dedicated to the Aeronautics Account. Despite the imbalance of current revenue

distribution, the aircraft registration program is entirely administered by the Department of Transportation Aviation Division. The current \$4 aircraft registration fee is increased to \$8.

A technical correction is made to clarify the intent for an excise tax exemption. The new section correctly references the aircraft registration excise tax rather than the business & occupation tax. Airplanes housed at airports jointly owned or operated by governmental entities from two or more states, and whose owners are nonresidents of Washington State, are exempt from paying Washington's aircraft registration excise tax if they can show proof that they have paid all taxes, license fees, and registration fees required by the state in which they reside. (Example: Idaho residents whose planes are housed at the Pullman Moscow airport would be exempt from Washington's aircraft registration excise tax.)

Appropriation: None.

Fiscal Note: Available.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: (original bill) These changes will bring the law into alignment with the regulations between marina operators and vessel owners. It clarifies the law governing when and how airports may impound planes, and legal remedies aircraft owners.

Testimony Against: None.

Testified: Susie Tracy, Washington Airport managers Association; John Sibilate, Port of Bellingham; and H. Alan Smith, private pilot.