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**SUBSTITUTE SENATE BILL 5414**

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**State of Washington**

**59th Legislature**

**2005 Regular Session**

**By** Senate Committee on Transportation (originally sponsored by Senators Haugen and Swecker)

READ FIRST TIME 03/04/05.

1 AN ACT Relating to aviation fees and taxes; amending RCW 47.68.230,  
2 82.42.020, and 82.42.030; reenacting and amending RCW 47.68.240;  
3 repealing RCW 47.68.233, 47.68.234, and 47.68.236; prescribing  
4 penalties; providing an effective date; and declaring an emergency.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 **Sec. 1.** RCW 47.68.230 and 1993 c 208 s 5 are each amended to read  
7 as follows:

8 It shall be unlawful for any person to operate or cause or  
9 authorize to be operated any civil aircraft within this state unless  
10 such aircraft has an appropriate effective certificate, permit, or  
11 license issued by the United States, if such certificate, permit, or  
12 license is required by the United States, and a current registration  
13 certificate issued by the secretary of transportation, if registration  
14 of the aircraft with the department of transportation is required by  
15 this chapter. It shall be unlawful for any person to engage in  
16 aeronautics as an airman or airwoman in the state unless the person has  
17 an appropriate effective airman or airwoman certificate, permit,  
18 rating, or license issued by the United States authorizing him or her  
19 to engage in the particular class of aeronautics in which he or she is

1 engaged, if such certificate, permit, rating, or license is required by  
2 the United States (~~(and a current airman's or airwoman's registration~~  
3 ~~certificate issued by the department of transportation as required by~~  
4 ~~RCW 47.68.233 or 47.68.234))~~).

5 Where a certificate, permit, rating, or license is required for an  
6 airman or airwoman by the United States (~~(or by RCW 47.68.233 or~~  
7 ~~47.68.234))~~, it shall be kept in his or her personal possession when he  
8 or she is operating within the state. Where a certificate, permit, or  
9 license is required by the United States or by this chapter for an  
10 aircraft, it shall be carried in the aircraft at all times while the  
11 aircraft is operating in the state and shall be conspicuously posted in  
12 the aircraft where it may be readily seen by passengers or inspectors.  
13 Such certificates shall be presented for inspection upon the demand of  
14 any peace officer, or any other officer of the state or of a  
15 municipality or member, official, or employee of the department of  
16 transportation authorized pursuant to this chapter to enforce the  
17 aeronautics laws, or any official, manager, or person in charge of any  
18 airport, or upon the reasonable request of any person.

19 **Sec. 2.** RCW 47.68.240 and 2003 c 375 s 3 and 2003 c 53 s 265 are  
20 each reenacted and amended to read as follows:

21 (1) Except as provided in subsection (2) of this section, any  
22 person violating any of the provisions of this chapter, or any of the  
23 rules, regulations, or orders issued pursuant thereto, is guilty of a  
24 misdemeanor.

25 (2)(a) Any person violating any of the provisions of RCW 47.68.220,  
26 47.68.230, or 47.68.255 is guilty of a gross misdemeanor.

27 (b) In addition to, or in lieu of, the penalties provided in this  
28 section, or as a condition to the suspension of a sentence which may be  
29 imposed pursuant thereto, for violations of RCW 47.68.220 and  
30 47.68.230, the court in its discretion may prohibit the violator from  
31 operating an aircraft within the state for such period as it may  
32 determine but not to exceed one year. Violation of the duly imposed  
33 prohibition of the court may be treated as a separate offense under  
34 this section or as a contempt of court.

35 (3) In addition to the provisions of (~~(subsection[s] (1) [and~~  
36 ~~(2)]~~)) subsections (1) and (2) of this section, failure to register an

1 aircraft, as required by this chapter is subject to the following civil  
2 penalties:

3 (a) If the aircraft registration is sixty days to one hundred  
4 nineteen days past due, the civil penalty is one hundred dollars.

5 (b) If the aircraft registration is one hundred twenty days to one  
6 hundred eighty days past due, the civil penalty is two hundred dollars.

7 (c) If the aircraft registration is over one hundred eighty days  
8 past due, the civil penalty is four hundred dollars.

9 ~~(4) ((In addition to the provisions in subsection[s] (1) [and (2)]  
10 of this section, failure to register as a pilot, airman, or airwoman,  
11 as required by this chapter, is subject to a civil penalty of four  
12 times the fees that are due. If the pilot registration is sixty days  
13 past due, the pilot, airman, or airwoman is subject to the [a] civil  
14 penalty of four times the fees that are due.~~

15 ~~(5))~~ The revenue from penalties prescribed in subsection (3) of  
16 this section must be deposited into the aeronautics account under RCW  
17 82.42.090. ~~((The revenue from penalties prescribed in subsection (4)  
18 of this section must be deposited into the aircraft search and rescue,  
19 safety, and education account under RCW 47.68.236.))~~

20 **Sec. 3.** RCW 82.42.020 and 2003 c 375 s 5 are each amended to read  
21 as follows:

22 There is hereby levied, and there shall be collected by every  
23 distributor of aircraft fuel, an excise tax at the rate of ~~((ten))~~  
24 eleven cents on each gallon of aircraft fuel sold, delivered, or used  
25 in this state: PROVIDED HOWEVER, That such aircraft fuel excise tax  
26 shall not apply to fuel for aircraft that both operate from a private,  
27 non-state-funded airfield during at least ninety-five percent of the  
28 aircraft's normal use and are used principally for the application of  
29 pesticides, herbicides, or other agricultural chemicals and shall not  
30 apply to fuel for emergency medical air transport entities: PROVIDED  
31 FURTHER, That there shall be collected from every consumer or user of  
32 aircraft fuel either the use tax imposed by RCW 82.12.020, as amended,  
33 or the retail sales tax imposed by RCW 82.08.020, as amended,  
34 collection procedure to be as prescribed by law and/or rule or  
35 regulation of the department of revenue. The taxes imposed by this  
36 chapter shall be collected and paid to the state but once in respect to  
37 any aircraft fuel.

1 The tax required by this chapter, to be collected by the seller, is  
2 held in trust by the seller until paid to the department, and a seller  
3 who appropriates or converts the tax collected to his or her own use or  
4 to any use other than the payment of the tax to the extent that the  
5 money required to be collected is not available for payment on the due  
6 date as prescribed in this chapter is guilty of a felony, or gross  
7 misdemeanor in accordance with the theft and anticipatory provisions of  
8 Title 9A RCW. A person, partnership, corporation, or corporate officer  
9 who fails to collect the tax imposed by this section, or who has  
10 collected the tax and fails to pay it to the department in the manner  
11 prescribed by this chapter, is personally liable to the state for the  
12 amount of the tax.

13 **Sec. 4.** RCW 82.42.030 and 1989 c 193 s 4 are each amended to read  
14 as follows:

15 (1) The provision of RCW 82.42.020 imposing the payment of an  
16 excise tax on each gallon of aircraft fuel sold, delivered or used in  
17 this state shall not apply to aircraft fuel sold for export, nor to  
18 aircraft fuel used for the following purposes: ~~((+1+))~~ (a) The  
19 operation of aircraft when such use is by any air carrier or  
20 supplemental air carrier operating under a certificate of public  
21 convenience and necessity under the provisions of the Federal Aviation  
22 Act of 1958, Public Law 85-726, as amended; ~~((+2+))~~ (b) the operation  
23 of aircraft for testing or experimental purposes; ~~((+3+))~~ (c) the  
24 operation of aircraft when such operation is for the training of crews  
25 in Washington state for purchasers of aircraft who are certified air  
26 carriers; and ~~((+4+))~~ (d) the operation of aircraft in the operations  
27 of a local service commuter: PROVIDED, That the director's  
28 determination as to a particular activity for which aircraft fuel is  
29 used as being an exemption under this section, or otherwise, shall be  
30 final.

31 (2) To claim an exemption on account of sales by a licensed  
32 distributor of aircraft fuel for export, the purchaser shall obtain  
33 from the selling distributor, and such selling distributor must furnish  
34 the purchaser, an invoice giving such details of the sale for export as  
35 the director may require, copies of which shall be furnished the  
36 department and the entity of the state or foreign jurisdiction of

1 destination which is charged by the laws of that state or foreign  
2 jurisdiction with the control or monitoring or both, of the sales or  
3 movement of aircraft fuel in that state or foreign jurisdiction.

4 (3) For the purposes of this section, "air carrier" means an  
5 airline, air taxi, air commuter, or air charter operator, that provides  
6 routine air service to the general public for compensation or hire, and  
7 operates at least fifteen round-trips per week between two or more  
8 points and publishes flight schedules which specify the times, days of  
9 the week, and points between which it operates. Where it is doubtful  
10 that an operation is for "compensation or hire," the test applied is  
11 whether the air service is merely incidental to the person's other  
12 business or is, in itself, a major enterprise for profit.

13 NEW SECTION. Sec. 5. The following acts or parts of acts are each  
14 repealed:

15 (1) RCW 47.68.233 (Registration of pilots--Certificates--Fees--  
16 Exemptions--Use of fees) and 2003 c 375 s 1, 2003 c 53 s 263, 2000 c  
17 176 s 1, 1987 c 220 s 2, 1984 c 7 s 355, 1983 c 3 s 143, & 1967 c 207  
18 s 2;

19 (2) RCW 47.68.234 (Registration of airman and airwoman) and 2003 c  
20 375 s 2, 2003 c 53 s 264, & 1993 c 208 s 3; and

21 (3) RCW 47.68.236 (Aircraft search and rescue, safety, and  
22 education account) and 1995 c 170 s 4, 1991 sp.s. c 13 s 38, 1985 c 57  
23 s 63, 1983 c 3 s 144, & 1967 c 207 s 3.

24 NEW SECTION. Sec. 6. This act is necessary for the immediate  
25 preservation of the public peace, health, or safety, or support of the  
26 state government and its existing public institutions, and takes effect  
27 July 1, 2005.

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