

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1947



ENROLLED

SENATE BILL No. 120

(By Mr. Hardesty)



PASSED March 3 1947

In Effect 90 days Passage



120

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Senate Bill No. 120

(By MR. HARDESTY)

[Passed March 3, 1947; in effect ninety days from passage.]

AN ACT to repeal article two-a, chapter twenty-nine, and sections one, five-a, and seven to thirteen, inclusive, article eleven, chapter eight of the code of West Virginia as amended, and to enact in lieu thereof a new article two-a, chapter twenty-nine, defining aeronautical words, terms and phrases; relating to the creation, membership, powers, duties, organization, and the employment and duties of a director and employees of a state aeronautics commission; relating to the powers and duties of the commission with regard to state and federal assistance in the construction of airports and the advancement of aeronautics; providing for the establishment and operation of state airports and airways; providing standards for the safe and legal operation of aircraft; relating to the unauthorized taking or theft of aircraft and providing a penalty there-

for; providing for the approval and licensing of airports, air schools and instructors, aircraft, and participation in any phase of aeronautics; relating to hearings and investigations by the commission of aeronautical matters and the powers of the commission to enforce its rules and regulations and the laws of the state pertaining to aeronautics; providing for judicial review of the commission's action; and providing penalties for violations of the aeronautics laws of this state, all relating to aeronautics.

Be it enacted by the Legislature of West Virginia:

That article two-a, chapter twenty-nine, and sections one, five-a, and seven to thirteen, inclusive, article eleven, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be repealed, and that a new article, to be designated article two-a, chapter twenty-nine be enacted, to read as follows:

- Section 1. *Definitions.*—As used in the statutes of West
- 2 Virginia, unless the context otherwise requires:
- 3 (a) “Aeronautics” means the art and science of flight,
- 4 including, but not limited to, transportation by aircraft;
- 5 the operation, construction, repair, or maintenance of air-

6 craft, aircraft power plants and accessories, including the
7 repair, packing, and maintenance of parachutes; the de-
8 sign, establishment, construction, extension, operation,
9 improvement, repair, or maintenance of airports or other
10 air navigation facilities, and instruction in flying or
11 ground subjects pertaining thereto.

12 (b) "Aeronautics instructor" means any individual who,
13 for hire or reward, engages in giving instruction, or offers
14 to give instruction in aeronautics, either in flying or
15 ground subjects, or both. It does not include any instruc-
16 tor in any public school, college or university of this state,
17 or any other institution of higher learning duly accred-
18 ited and approved for carrying on collegiate work, while
19 engaged in the performance of his duties as such instruc-
20 tor.

21 (c) "Aircraft" means any contrivance now known, or
22 hereafter invented, used or designed for navigation of or
23 flight in the air.

24 (d) "Airmen" means any individual who engages, as
25 the person in command, or as pilot, mechanic, or mem-
26 ber of the crew, in the navigation of aircraft while under

27 way, and any individual who is directly in charge of the
28 inspection, maintenance, overhauling, or repair of air-
29 craft engines, propellers or appliances, and any individual
30 who serves in the capacity of aircraft dispatcher, or air-
31 traffic control-tower operator. It does not include any
32 individual employed outside the United States, or any
33 individual employed by a manufacturer of aircraft, air-
34 craft engines, propellers, or appliances to perform duties
35 as inspector or mechanic in connection therewith, or any
36 individual performing inspection or mechanical duties
37 in connection with aircraft owned or operated by him.

38 (e) "Air navigation" or "avigation" means the oper-
39 ation or navigation of aircraft in the air space over this
40 state, or upon any airport within this state.

41 (f) "Air navigation facility" means any facility other
42 than one owned or controlled by the federal govern-
43 ment, used in, available for use in, or designed for
44 use in aid of air navigation, including airports, and
45 any structures, mechanisms, lights, beacons, mark-
46 ers, communications system, or other instrumental-
47 ities or devices used or useful as an aid or con-

48 stituting an advantage or convenience, to the safe
49 taking-off, navigation, and landing of aircraft, or the
50 safe and efficient operation or maintenance of an airport,
51 and any combination of any or all of such facilities.

52 (g) "Airport" means any area of land or water which
53 is used, or intended for use, for the landing and take-off
54 of aircraft, and any appurtenant areas which are used, or
55 intended for use, for airport buildings or other airport
56 facilities or rights of way, together with all airport build-
57 ings and facilities located thereon.

58 (h) "Airport hazard" means any structure, object of
59 natural growth, or use of land, which obstructs the air
60 space required for the flight of aircraft in landing or tak-
61 ing off at any airport or is otherwise hazardous to such
62 landing or taking off.

63 (i) "Air school" means any person who engages in
64 giving, or offering to give, instruction in aeronautics,
65 either in flying or ground subjects, or both, for or with-
66 out hire or reward. It does not include any public school,
67 college, or university of this state, or any other institu-

68 tion of higher learning duly accredited and approved for
69 carrying on collegiate work.

70 (j) "Commission" means The West Virginia State
71 Aeronautics Commission.

72 (k) "Director" means the Director of Aeronautics of
73 this state.

74 (l) "Municipality" means any county, city, town, vil-
75 lage, or other political subdivision of this state. "Munic-
76 ipal" means pertaining to a municipality as herein defined.

77 (m) "Operation of aircraft" or "operate aircraft"
78 means the use, navigation or piloting of aircraft in the air
79 space over this state or upon the ground within this state.

80 (n) "Person" means any individual, firm, copartner-
81 ship, corporation, company, association, joint stock asso-
82 ciation, or body politic, and includes any trustee, re-
83 ceiver, assignee, or other similar representative thereof.

84 (o) "State airway" means a route in the navigable
85 airspace over and above the lands or waters of this state,
86 designated by the commission as a route suitable for air
87 navigation.

88 (p) The singular of any of the above defined terms

89 shall include the plural and the plural the singular.

Sec. 2. *Creation and Membership.*—There is hereby
2 created an aeronautics commission, to be known as “The
3 West Virginia State Aeronautics Commission”, to con-
4 sist of five members to be appointed by the governor,
5 by and with the advice and consent of the Senate.
6 One of such members shall be the state road commis-
7 sioner ex officio, whose term as such member shall con-
8 tinue for the period that he holds the office of state road
9 commissioner. The other four members of the commis-
10 sion shall be appointed by the governor, each to serve
11 a term beginning the first day of July, one thousand nine
12 hundred forty-seven, one to serve for a term of one year,
13 one to serve for a term of two years, one to serve for a
14 term of three years, and one to serve for a term of four
15 years. The successors of the members (other than the
16 state road commissioner) initially appointed as provided
17 herein, shall be appointed for terms of four years each
18 in the same manner as the members originally appointed
19 under this act, except that any person appointed to fill
20 a vacancy occurring prior to the expiration of the term

21 for which his predecessor was appointed shall be ap-
22 pointed only for the remainder of such term. Each mem-
23 ber shall serve until the appointment and qualification
24 of his successor. No more than three members of the
25 commission shall be members of the same political party.
26 All members of the commission shall be citizens and
27 residents of this state. The members of the commission
28 who shall be appointed by the governor as provided by
29 this section shall be selected with due regard to their fit-
30 ness by reason of their aeronautical knowledge and prac-
31 tical experience in the field of aeronautics. In making such
32 appointments, the governor shall, so far as may be pos-
33 sible and practicable, select the several members from
34 different geographical sections of the state.

35 No member shall receive any salary for his services,
36 but each shall be reimbursed for actual and necessary
37 expenses incurred by him in the performance of his duties.

Sec. 3. *Powers and Duties of Commission.*—The com-
2 mission shall assume, carry on and succeed to all the
3 duties, rights, powers, obligations and liabilities here-
4 tofore belonging to, exercised by, or assumed by the state

5 board of aeronautics, pursuant to statutory authority here-
6 tofore existing and as changed or modified by the provi-
7 sions of this article. The commission shall have general su-
8 pervision and control over all airports used for commercial
9 purposes, all state and municipal airports, all air schools,
10 and over all phases of aeronautics within this state. It may
11 enter into any contracts necessary to the execution of the
12 powers granted to it by this act. It is empowered and di-
13 rected to encourage, foster, and assist in the development
14 of aeronautics in this state and to encourage the establish-
15 ment of airports and air navigation facilities. It shall coop-
16 erate with and assist the federal government, the munici-
17 palities of this state, and other persons in the development
18 of aeronautics, and shall act to coordinate the aeronautical
19 activities of these bodies and persons. Municipalities are
20 authorized to cooperate with the commission in the devel-
21 opment of aeronautics and aeronautics facilities in this
22 state. The commission is hereby given the power and au-
23 thority to make such rules and regulations as it may deem
24 necessary and advisable for the public safety, governing

25 the designing, laying out, locating, building, equipping,
26 and operating of all airports, the establishment and op-
27 eration of all air schools, and the conduct of all other
28 phases of aeronautics. The commission is given the power
29 and authority to make different ratings of airports and
30 to prescribe the proper uses for which the different
31 classes of ratings are given. The commission is given
32 power and authority to make rules and regulations gov-
33 erning the personnel and operation of all air schools,
34 for the purpose of protecting the health and safety of
35 students therein and insuring, so far as may be, the pub-
36 lic safety through the proper training and instruction
37 of student aviators and mechanics. It shall adopt and en-
38 force the provisions of the federal air commerce act, now
39 in effect or as hereafter amended, so as to make applicable
40 as far as possible the provisions of that act to the state of
41 West Virginia, but the commission shall not make or
42 promulgate any rules, regulations or orders applicable
43 to persons engaged in interstate air commerce, in con-
44 travention of or inconsistent with the laws of the United
45 States, or the rules, regulations or orders of the civil aero-

46 nautics board, the civil aeronautics administration, or
47 other competent agency of the United States: *Provided*,
48 *however*, That nothing in this act shall be construed to
49 deprive the public service commission of West Virginia
50 of the power to regulate air transportation for compen-
51 sation.

52 The commission shall keep on file with the secretary
53 of state, and at the principal office of the commission,
54 a copy of all its rules and regulations and orders having
55 general effect, for public inspection. It shall provide for
56 the publication and general distribution of all its orders,
57 rules, regulations and procedures having general effect.
58 Copies of any such orders, rules, or regulations shall be
59 delivered to any person interested, free of charge, upon
60 request. The publication and distribution of any such
61 order, rule, or regulation as provided herein, shall be
62 sufficient notice to the public of the provisions, require-
63 ments, and effect thereof.

Sec. 4. *Organization of Commission, Meetings, Re-*
2 *ports, Offices.*—The commission shall adopt a seal, and
3 shall make, and may from time to time amend, such

4 rules and regulations for the administration of the pow-
5 ers granted to it by this act as are not inconsistent there-
6 with and as the commission may deem expedient. The
7 commission shall organize by electing from among its
8 members a chairman who shall serve as such for a period
9 of two years. Such chairman shall have the power to
10 sign documents, execute contracts, and otherwise act for
11 and in the name of the commission in all matters within
12 the lawful powers of the commission and duly author-
13 ized by a majority of its members.

14 The commission shall determine the number, date, and
15 place of its regular meetings, but at least one such meet-
16 ing shall be held annually at the commission's estab-
17 lished offices in the city of Charleston. Whenever the
18 convenience of the public or of interested persons may
19 be promoted, or delay or expense may be prevented, the
20 commission may hold meetings, hearings, or proceedings
21 at any other place designated by it.

22 The commission shall report in writing to the governor
23 on or before the thirty-first day of August of each year.
24 The report shall contain a summary of the commission's

25 proceedings during the preceding fiscal year, a detailed
26 and itemized statement of all revenue received and all
27 expenditures made by or on behalf of the commission,
28 such other information as it may deem necessary or use-
29 ful, and any additional information which may be re-
30 quested by the governor. The fiscal year of the com-
31 mission shall conform to the fiscal year of the state.

32 An office shall be established and maintained by the
33 commission in the city of Charleston. In addition, the
34 commission may establish and maintain such other of-
35 fices within the state as it may deem necessary and ex-
36 pedient.

Sec. 5. *Director of Aeronautics, Appointment, Qual-*
2 *ifications, Compensation, Powers and Duties; Adminis-*
3 *trative and Other Assistants, Their Powers and Duties.—*

4 A director of aeronautics shall be appointed by the com-
5 mission, who shall serve for an indefinite term at the
6 pleasure of the commission. He shall be appointed with
7 due regard to his fitness, by aeronautical education and
8 by knowledge of and recent practical experience in aero-
9 nautics, for the efficient dispatch of the powers and duties

10 vested in and imposed upon him by this act. He shall
11 hold or have held a federal commercial pilot's license.
12 He shall devote his entire time to the duties of his office
13 as required and prescribed by this act, and shall not be
14 actively engaged or employed in any other business, vo-
15 cation or employment, nor shall he have any pecuniary
16 interest in, or any stock in, or bonds of, any civil aero-
17 nautical enterprise. He shall receive such compensation
18 as the commission may determine, which said compen-
19 sation shall, however, conform in general to the com-
20 pensation received by persons occupying positions of
21 similar importance and responsibility with other agen-
22 cies of this state. He shall be reimbursed for all travel-
23 ing and other expenses incurred by him in the discharge
24 of his official duties. The director shall be the executive
25 officer of the commission and under its supervision shall
26 administer the provisions of this act and the rules, reg-
27 ulations and orders established thereunder, and all other
28 laws of the state relative to aeronautics. The director
29 shall attend, but not vote, at all meetings of the com-
30 mission. He shall act as secretary of the commission and

31 shall be in charge of its offices and responsible to the
32 commission for the preparation of reports and the col-
33 lection and dissemination of data and other public in-
34 formation relating to aeronautics. At the direction of
35 the commission he shall, together with the chairman of
36 the commission, execute all contracts entered into by
37 the commission which are legally authorized and for
38 which funds are provided in any appropriations act.
39 The commission may, by written order filed in its office,
40 delegate to the director any of the powers or duties vest-
41 ed or imposed upon it by this act. Such delegated powers
42 and duties may be exercised by such director in the name
43 of the commission. The commission may also employ
44 such administrative, engineering, technical and clerical
45 assistance as may be required. The director and such
46 other assistants may, under the supervision of the com-
47 mission, insofar as is reasonably possible, make avail-
48 able the engineering and other technical services of the
49 commission, without charge to any municipality, and
50 with or without charge to any other person desiring
51 them, in connection with the construction, maintenance

52 or operation, or proposed construction, maintenance or
53 operation of any airport. The commission, the director,
54 and such other assistants as may be designated by the
55 commission shall see that the state and federal laws gov-
56 erning aviation and the rules and regulations of the
57 commission are carried out. They shall have police pow-
58 ers and may make arrests for the violation of this article,
59 or the rules and regulations of the commission.

Sec. 6. *State Financial Assistance for Municipal Air-*
2 *ports.*—The commission, out of any appropriation made
3 to it by the legislature or out of any funds at its disposal,
4 may make funds available by grant or otherwise to mu-
5 nicipalities for the planning, acquisition, construction,
6 improvement, maintenance, or operation of airports
7 owned or operated or to be owned or operated by such
8 municipalities. Acceptance of any moneys so made avail-
9 able to any municipality shall constitute consent by the
10 recipient that a reasonable use of such airport may be
11 made, upon request of the commission, by the United
12 States government, the state, or any of their respective
13 agencies, including the state aeronautics commission and

14 the national guard of West Virginia for state purposes
15 related or incidental to aeronautics. Such financial as-
16 sistance may be furnished in connection with federal or
17 other financial aid for the same purpose.

Sec. 7. *Federal Aid.*—(a) The commission is author-
2 ized to cooperate with the government of the United
3 States, and any agency or department thereof, in the
4 planning, acquisition, construction, improvement, main-
5 tenance and operation of airports and other air naviga-
6 tion facilities in this state, and is authorized to accept
7 federal aid either outright or by way of matching the
8 same in whole or in part as may be required, and when
9 funds for matching are available to the commission, and
10 to comply with the provisions of the laws of the United
11 States and any regulations made thereunder for the ex-
12 penditure of federal moneys upon such airports and other
13 air navigation facilities.

14 (b) The commission is authorized to accept, receive,
15 and receipt for federal moneys and other moneys, either
16 public or private, for and in behalf of this state, or any
17 municipality thereof, for the planning, acquisition, con-

18 struction, improvement, maintenance, and operation of
19 airports and other air navigation facilities, whether such
20 work is to be done by the state or by such municipality,
21 or jointly, aided by grants of aid from the United States,
22 upon such terms and conditions as are or may be pre-
23 scribed by the laws of the United States and any rules
24 or regulations made thereunder, and it is hereby des-
25 ignated as the agency of the state, and is authorized to
26 and may act as agent of any municipality of this state
27 upon the request of such municipality, in accepting, re-
28 ceiving and receipting for such moneys in its behalf for
29 airports or other air navigation facility purposes, and in
30 contracting for the planning, acquisition, construction,
31 improvement, maintenance, or operation of airports or
32 other air navigation facilities, financed either in whole
33 or in part by federal moneys; and any such municipality
34 is authorized to and may, and the state hereby does
35 designate the commission as its agent for such purposes
36 and any such municipality may enter into an agreement
37 with the commission prescribing the terms and condi-
38 tions of such agency in accordance with federal laws,

39 rules and regulations and with this act. Such moneys
40 as are paid over by the United States government shall
41 be retained by the state or paid over to said municipali-
42 ties under such terms and conditions as may be imposed
43 by the United States government in making such grants.

44 (c) All contracts for the planning, acquisition, con-
45 struction, improvement, maintenance, and operation of
46 airports, or other air navigation facilities made by the
47 commission, either as the agent of the state or as the
48 agent of any municipality therein, shall be made pur-
49 suant to the laws of this state governing the making of
50 like contracts: *Provided, however,* That where the plan-
51 ning, acquisition, construction, improvement, mainten-
52 ance, and operation of any airport or other air naviga-
53 tion facility is financed wholly or partially with federal
54 moneys, the commission, as agent of the state or of any
55 municipality thereof, may let contracts in the manner
56 prescribed by the federal authorities, acting under the
57 laws of the United States, and any rules or regulations
58 made thereunder, notwithstanding any other state law to
59 the contrary.

60 (d) All moneys accepted for disbursement by the
61 commission pursuant to this section shall be deposited in
62 the state treasury, and, unless otherwise prescribed by
63 the authority from which the money is received, kept
64 in separate funds, designated according to the purposes
65 for which the moneys were made available, and held
66 by the state in trust for such purposes. All such moneys
67 are hereby appropriated for the purposes for which the
68 same were made available, shall be expended in accord-
69 ance with federal laws and regulations and with this act.
70 The commission is authorized, whether acting for this
71 state or as the agent of any municipality therein, when
72 requested by the United States government or any agency
73 or department thereof, or when requested by the state
74 or municipality for which the money has been made
75 available, to disburse such moneys for the designated
76 purposes, but this shall not preclude any other author-
77 ized method of disbursement.

78 (e) The state or any municipality therein is author-
79 ized to cooperate with the government of the United
80 States, and any agency or department thereof, in the

81 acquisition, construction, improvement, maintenance and
82 operation of airports and other air navigation facilities
83 in this state, and is authorized to accept federal aid, either
84 by way of outright grant or by matching the same in
85 whole or in part as may be required, and to comply with
86 the provisions of the laws of the United States and any
87 regulations made thereunder for the expenditure of fed-
88 eral moneys upon such airports and other navigation
89 facilities.

90 (f) No political subdivision of this state, whether act-
91 ing alone or jointly with another political subdivision or
92 with the state, shall submit to the administrator or civil
93 aeronautics of the United States any project application
94 under the provisions of section nine-a of the act of Con-
95 gress approved on the thirteenth day of May, one thou-
96 sand nine hundred forty-six, being public law three hun-
97 dred seventy-seven, seventy-ninth Congress, known and
98 hereinafter designated as the "Federal Airport Act", or
99 any amendment thereof, unless the project and the proj-
100 ect application have been first approved by the commis-
101 sion. No such political subdivision shall directly accept,

102 receive, receipt for, or disburse any funds granted by the
103 United States under the federal airport act, but it shall
104 designate the commission as its agent in its behalf to
105 accept, receive, receipt for and disburse such funds. It
106 shall enter into an agreement with the commission pre-
107 scribing the term and conditions of such agency in ac-
108 cordance with federal laws, rules and regulations and
109 applicable laws of this state. Such moneys as are paid
110 over by the United States government shall be retained
111 by the state or paid over to the municipality under such
112 terms and conditions as may be imposed by the United
113 States government in making such grant.

Sec. 8. *State Airports, Establishment and Operation.*—

2 The commission is authorized on behalf of and in the
3 name of the state, out of appropriations and other moneys
4 made available for such purposes, to plan, establish, con-
5 struct, maintain, and operate airports and air navigation
6 facilities within the state. For such purposes the com-
7 mission may, by purchase, gift, devise, lease, condemna-
8 tion or otherwise, acquire such property, real or per-
9 sonal, as is necessary to permit safe and efficient opera-

10 tion of the airports and air navigation facilities. In like
11 manner, the commission may acquire existing airports
12 and air navigation facilities; *Provided, however,* That it
13 shall not acquire or take over any airport or air nav-
14 igation facility owned or controlled by a municipality of
15 this or any other state without the consent of such mu-
16 nicipality. The commission may by sale, lease, or other-
17 wise, dispose of any such property, airport, air naviga-
18 tion facility, or portion thereof or interest therein. Such
19 disposal by lease shall be made pursuant to the terms
20 of chapter eight, article eleven, section six of the code
21 of West Virginia. Such disposal by sale or otherwise
22 shall be in accordance with the laws of this state gov-
23 erning the disposition of other property of the state, ex-
24 cept that in the case of disposal to any municipality or
25 state government or the United States for aeronautical
26 purposes incident thereto the sale or other disposal may
27 be effected in such manner and upon such terms as the
28 commission may deem in the best interest of the state.

29 Nothing contained in this act shall be construed to
30 limit any right, power or authority of the state or a

31 municipality to regulate airport hazards by zoning.

32 The commission may exercise any powers granted by
33 this section jointly with any municipalities or agencies of
34 the state government, with other states or their munici-
35 palities, or with the United States.

36 In the condemnation of property authorized by this
37 section, the commission shall proceed in the name of the
38 state in the manner provided by chapter fifty-four, code
39 of West Virginia, one thousand nine hundred thirty-one.

Sec. 9. *State Airways*.—The commission may designate, design, and establish, expand, or modify a state
2 airways system which will best serve the interest of the
3 state. It may chart such airways system and arrange for
4 publication and distribution of such maps, charts, notices
5 and bulletins relating to such airways as may be required
6 in the public interest. The system shall be supplementary
7 to and coordinated in design and operation with the
8 federal airways system. It may include all types of air
9 navigation facilities, whether publicly or privately owned,
10 provided that such facilities conform to federal safety
11 standards.
12

Sec. 10. *Public Purpose of Activities.*—The acquisition of any lands or interests therein pursuant to this act, the planning, acquisition, establishment, construction, improvement, maintenance and operation of airports and air navigation facilities, whether by the state separately or jointly with any municipalities, and the exercise of any other powers herein granted to the commission are hereby declared to be public and governmental functions, exercised for a public purpose, and matters of public necessity. All lands and other property and privileges acquired and used by or on behalf of the state in the manner and for the purposes enumerated in this act shall and are hereby declared to be acquired and used for public and governmental purposes and as a matter of public necessity.

Sec. 11. *Operation of Aircraft While Intoxicated; Penalty.*—No person shall operate an aircraft in the air over, or on the ground or water within this state while intoxicated or under the influence of intoxicating liquor, drugs or narcotics; nor shall the owner of such aircraft, knowingly permit the same to be so operated by a person who

7 is intoxicated, or under the influence of intoxicating
8 liquor, drugs or narcotics.

9 A person violating any of the provisions of this section
10 shall, for the first offense, be guilty of a misdemeanor
11 and upon conviction thereof shall be punished by a fine
12 of not more than five hundred dollars or by confinement
13 in jail for not more than one year, or both. For a second
14 and subsequent offense, he shall be guilty of a felony
15 and upon conviction thereof shall be confined in the
16 penitentiary not less than one nor more than three years.
17 Any person who, while intoxicated, or under the influ-
18 ence of intoxicating liquor, drugs or narcotics operates
19 an aircraft, and while so operating the aircraft, does
20 serious bodily injury to another, shall be guilty of feloni-
21 ous assault, and upon conviction thereof shall, for the
22 first offense be punished at the discretion of the court,
23 either by confinement in the penitentiary for not less
24 than one nor more than five years or by confinement in
25 jail for not more than one year and by a fine of not more
26 than five hundred dollars. For a second and subsequent
27 such offense, he shall be guilty of a felony and upon con-

28 viction thereof shall be punished by confinement in the
29 penitentiary for not less than one nor more than five
30 years.

Sec. 12. *Operation of Aircraft at Low Altitude or in*
2 *Careless and Reckless Manner; Penalty.*—No person shall
3 operate an aircraft at an altitude of less than one thou-
4 sand feet over any city, town, or village, or public gath-
5 ering elsewhere, except at a duly established airport or
6 when necessary to make a safe and proper landing or
7 take-off in an emergency or at a duly established airport.

8 No person shall operate an aircraft in the air over, or
9 on the ground or water within this state in a careless and
10 reckless manner in wilful or wanton disregard of the
11 rights or safety of others, or without due caution and
12 circumspection and in a manner so as to endanger or be
13 likely to endanger any person or property.

14 A person violating any of the provisions of this sec-
15 tion shall be guilty of a misdemeanor, and, upon con-
16 viction thereof, shall be punished by a fine of not more
17 than five hundred dollars or by confinement in jail for
18 not more than one year, or both.

Sec. 13. *Unauthorized Taking or Operation of Air-*

2 *craft; Penalty.*—No person, other than the duly author-
3 ized agent, servant or employee of the owner thereof,
4 shall take, without the knowledge and consent of the
5 owner, and operate within this state any aircraft owned
6 by another. Any person who, wilfully and without the
7 knowledge or consent of the owner or person in lawful
8 charge thereof, and with the intent to deprive such
9 owner or person in lawful charge of the possession or
10 use thereof, either temporarily or permanently, shall
11 take possession of, enter and operate, or otherwise take
12 and use, any aircraft belonging to another or in his law-
13 ful possession; and any person who shall assist, aid and
14 abet, or be present for the purpose and with the intent to
15 assist, aid or abet, another person in such taking posses-
16 sion of, entering and operating, or otherwise taking and
17 using any such aircraft; and any person who shall receive,
18 buy, conceal, or otherwise dispose of any such aircraft
19 knowing the same to have been stolen or taken without
20 the knowledge or consent of the owner or person in law-
21 ful charge thereof, shall be deemed guilty of a felony, and

22 upon conviction thereof, shall be fined not less than two
23 hundred nor more than five thousand dollars and con-
24 fined in the penitentiary for not less than two nor more
25 than ten years.

Sec. 14. *Federal License Required for Operation of*
2 *Aircraft.*—No person shall operate or cause or authorize
3 to be operated any aircraft within this state unless such
4 aircraft has an appropriate effective certificate, permit or
5 license issued by the United States, if such certificate,
6 permit or license is required by the United States; nor
7 shall any person engage in aeronautics as an airman in
8 this state unless he has an appropriate effective airman
9 certificate, permit, rating or license issued by the United
10 States authorizing him to engage in the particular class
11 of aeronautics in which he is engaged, if such certificate,
12 permit, rating or license is required by the United States.
13 Where a certificate, permit, rating or license is required
14 for an airman by the United States, it shall be kept in his
15 personal possession when he is operating within this state
16 and shall be presented for inspection upon the demand of
17 any peace officer, or any other officer of the state or of a

18 municipality or member, official, or employee of the com-
19 mission authorized under this act to enforce the aero-
20 nautics law of this state, or any official, manager or per-
21 son in charge of any airport upon which the airman shall
22 land, or upon the reasonable request of any other per-
23 son. Where a certificate, permit or license is required by
24 the United States for an aircraft, it shall be carried in the
25 aircraft at all times while the aircraft is operating in the
26 state, shall be conspicuously posted in the aircraft where
27 it may readily be seen by passengers or inspectors, and
28 shall be presented for inspection upon the demand of any
29 peace officer, or any other officer of the state or of a
30 municipality or member, official or employee of the com-
31 mission authorized under this act to enforce the aero-
32 nautics laws of this state, or any official, manager or per-
33 son in charge of any airport upon which the aircraft shall
34 land, or upon the reasonable request of any person.

Sec. 15. *Licensing of Air Schools and Aeronautics In-*
2 *structors.*—The commission is authorized to provide for
3 the licensing of air schools and of aeronautics instructors.
4 For each license of an air school it may charge a fee not

5 exceeding twenty dollars, and for each license of an aero-
6 nautics instructor it may charge a fee not exceeding
7 five dollars.

8 The commission may refuse to issue or may suspend or
9 revoke temporarily or permanently, any license of an air
10 school or aeronautics instructor required pursuant to this
11 section when it shall reasonably determine, upon notice
12 and opportunity for hearing, that such air school or aero-
13 nautics instructor is not qualified. In arriving at such
14 determination the commission shall consider, among other
15 things, whether the school or instructor has violated the
16 provisions of any statute of this state or the United States
17 relating to aeronautics or the rules and regulations pro-
18 mulgated pursuant thereto, or whether the aeronautics
19 instructor or any aeronautics instructor of the air school is
20 addicted to the use of narcotics or other habit-forming
21 drugs or to the excessive use of intoxicating liquor or has
22 made any false statements of a material nature in connec-
23 tion with an application to the commission under this act,
24 or has been guilty of conduct dangerous to the public
25 safety or to the safety of those engaged in aeronautics.

26 It shall be unlawful for a person to operate an air school
27 or for any aeronautics instructor to give instruction in
28 aeronautics without an appropriate license as may be duly
29 required by rule or regulation promulgated under the
30 provisions of this section: *Provided further*, That it shall
31 be unlawful for any aeronautics instructor to give instruc-
32 tion in flying unless such instructor has an appropriate
33 effective instructor's rating, certificate, permit or license
34 as a flight instructor issued by the United States.

Sec. 16. *Certificates for Airport Sites; Licensing Air-*
2 *ports.*---The commission is authorized to provide for the
3 approval of airport sites and the issuance of certificates of
4 such approvals. No charge shall be made for any such
5 approval, and certificates of such an approval shall be
6 issued without charge to all persons requesting them.
7 Upon the promulgation of a rule or regulation providing
8 for such approvals, any municipality or person desiring
9 or planning to construct or establish an airport may, prior
10 to the acquisition of the site or prior to the construction or
11 establishment of the proposed airport, make application
12 to the commission for approval of the site. The commis-

13 sion shall with reasonable dispatch grant approval of a
14 site if it is satisfied: (1) that the site is adequate for the
15 proposed airport; (2) that such proposed airport, if con-
16 structed or established, will conform to minimum stand-
17 ards of safety; (3) that safe air traffic patterns could be
18 worked out for such proposed airport and for all existing
19 airports and approved airport sites in its vicinity; and
20 (4) that such airport is reasonably necessary to provide
21 adequate aeronautics facilities for the public or any per-
22 son having need therefor. An approval of a site may be
23 granted subject to any reasonable conditions which the
24 commission may deem necessary to effectuate the pur-
25 poses of this section, and shall remain in effect, unless
26 sooner revoked by the commission, until a license for an
27 airport located on the approved site has been issued pur-
28 suant to the provisions of this section. The commission
29 may, after notice and opportunity for hearing to holders
30 of certificates of approval, revoke such approval when
31 it shall reasonably determine (1) that there has been an
32 abandonment of the site as an airport site, or (2) that
33 there has been a failure within the time prescribed, or

34 if no time was prescribed, within a reasonable time, to
35 develop the site as an airport or to comply with the con-
36 ditions of the approval, or (3) that because of change of
37 physical, legal or other conditions nor circumstances the
38 site is no longer usable and necessary for the aeronautical
39 purposes for which the approval was granted.

40 The commission is authorized to provide for the licens-
41 ing of airports and the periodic renewal of such licenses.
42 It may charge license fees not exceeding twenty-five dol-
43 lars for each original license, and not exceeding ten dol-
44 lars for each renewal thereof. Upon the promulgation of
45 a rule or regulation providing for such licensing, the com-
46 mission shall with reasonable dispatch, upon receipt of
47 an application for an original license and the payment
48 of the duly required fee therefor, issue an appropriate
49 license if a certificate of approval has previously been
50 issued and has not been cancelled by the commission, or,
51 where no such certificate has been issued if it is satisfied
52 that the airport conforms to the standards established
53 herein for the issuance of a certificate of approval. All
54 licenses shall be renewable at such reasonable periodic

55 intervals and upon payment of such fees as may be pre-
56 scribed by the commission. Licenses and renewals thereof
57 may be issued subject to any reasonable conditions that
58 the commission may deem necessary to effectuate the pur-
59 poses of this section. The commission may, after notice
60 and opportunity for hearing to the licensee, revoke or
61 suspend any license or renewal thereof, or refuse to issue
62 a renewal, when it shall reasonably determine (1) that
63 there has been an abandonment of the airport as such,
64 or (2) that there has been a failure to comply with the
65 conditions of the license or renewal thereof, or (3) that
66 because of change of physical, legal or other conditions
67 or circumstances the airport has become either unsafe or
68 unusable for the aeronautical purposes for which the
69 license or renewal was issued. It shall be unlawful for
70 any municipality, or officer or employee thereof, or any
71 person to operate an airport without an appropriate
72 license for such, as may be duly required by rule or reg-
73 ulation issued pursuant to this section.

74 Every licensed airport in this state shall employ an
75 airport manager, who shall be licensed by the commis-

76 sion upon application showing that the person applying
77 for such license is qualified by training and experience
78 to properly perform the duties of airport manager.

79 In connection with the grant of approval of a proposed
80 airport site or the issuance of an airport license the com-
81 mission may, on its own motion or upon the request of an
82 affected or interested person, hold a hearing open to the
83 public as provided in section seventeen of this article:
84 *Provided, however,* That the provisions of this section
85 shall not apply to airports owned or operated by the
86 United States. The commission may, from time to time,
87 to the extent necessary, exempt any other class of air-
88 ports, pursuant to a reasonable classification or grouping,
89 from any rule or regulation promulgated under this sec-
90 tion from any requirement of such a rule or regulation,
91 if it finds that the application of such rules, regulation or
92 requirement would be an undue burden on such class
93 and is not required in the interest of public safety.

Sec. 17. *Investigations, Hearings; Power to Subpoena*

2 *Witnesses; Self-crimination.*—The commission, any mem-
3 ber thereof, the director or any officer or employee of the

4 commission designated by it, shall have the power to hold
5 investigations, inquiries and hearings concerning matters
6 covered by the provisions of this act and the rules, regu-
7 lations and orders of the commission, and concerning ac-
8 cidents in aeronautics within this state . Hearings shall
9 be open to the public and, except as provided in section
10 twenty-two, shall be held upon such call or notice as the
11 commission shall deem advisable. Each member of the
12 commission, the director and every officer or employee of
13 the commission designated by it to hold any inquiry, in-
14 vestigation or hearing shall have the power to adminis-
15 ter oaths and affirmations, certify to all officials acts, is-
16 sue subpoenas, and order the attendance and testimony of
17 witnesses and the production of papers, books and docu-
18 ments. In case of the failure of any person to comply with
19 any subpoena or order issued under the authority of this
20 section, the commission or its authorized representative
21 may invoke the aid of any circuit court of this state. The
22 court shall thereupon order such person to comply with
23 the requirements of the subpoena order or to give evi-
24 dence touching the matter in question. Failure to obey

25 the order of the court may be punished by the court as a
26 contempt thereof. A claim that any such testimony or evi-
27 dence may tend to incriminate the person giving the same
28 shall not excuse witness from testifying, but such witness
29 shall not be prosecuted for any offense concerning which
30 he is compelled hereunder to testify.

31 Subject to the foregoing provision, the commission may
32 in its discretion make available to appropriate federal,
33 state and municipal agencies information and material
34 developed in the course of its investigations and hearings.

Sec. 18. *Disposition of Fees.*—All fees or other moneys
2 collected by said commission under the provisions of this
3 article shall be paid into the state treasury in the manner
4 provided in article two, chapter twelve of the Code of
5 West Virginia, and shall be carried in a separate account
6 and be used and expended only for the purpose of carry-
7 ing out the provisions of this article. The fees or other
8 moneys so paid into the state treasury shall constitute and
9 be treated as an excepted fund, and all of the provisions
10 of section two of said article two, chapter twelve of the said
11 Code, applicable to the funds therein excepted from the

12 general provisions for the deposit and payment of state
13 funds, shall be applicable to the fund derived from collec-
14 tions made pursuant to the provisions of this article.

Sec. 19. *Federal-State Joint Hearings, Reciprocal Ser-*
2 *vices, Accident Reporting.*—The commission is authorized
3 to confer with or to hold joint hearings with any agency
4 of this state or the United States in connection with any
5 matter arising under this act, or relating to the sound de-
6 velopment of aeronautics.

7 The commission is authorized to avail itself of the coop-
8 eration, services, records and facilities of the agencies of
9 the United States as fully as may be practicable in the ad-
10 ministration and enforcement of this act. The commission
11 shall furnish to the agencies of the United States its co-
12 operation, services, records and facilities, in so far as may
13 be practicable.

14 The commission shall report to the appropriate agency
15 of the United States all accidents in aeronautics in this
16 state of which it is informed, and shall in so far as is prac-
17 ticable preserve, protect and prevent the removal of the
18 component parts of any aircraft involved in an accident

19 being investigated by it for such reasonable time as may
20 be necessary to give the federal agency adequate oppor-
21 tunity to institute an investigation.

Sec. 20. *Enforcement of Aeronautics Laws.*—It shall
2 be the duty of the commission, its members, the director,
3 officers and such employees of the commission as may be
4 designated by it, and every state and municipal officer
5 charged with the enforcement of state and municipal laws,
6 to enforce and assist in the enforcement of this act and of
7 all rules, regulations and orders issued pursuant thereto
8 and of all other laws of this state relating to aeronautics;
9 and in that connection each of the aforesaid persons is au-
10 thorized to inspect and examine at reasonable hours any
11 aircraft, the credentials of any airman or other person en-
12 gaged in aeronautics required by the laws of this state or
13 of the United States to have in his possession credentials
14 evidencing his authority or permission to engage in aero-
15 nautics, any premises, and the buildings and other struc-
16 tures thereon, where airports, air navigation facilities, air
17 schools, or other aeronautical activities are operated or
18 conducted. In aid of the enforcement of this act, the rules,

19 regulations and orders issued pursuant thereto and of all
20 other laws of the state relating to aeronautics, general
21 police powers are hereby conferred upon the commission,
22 each of its members, the director, and such other officers
23 and employees of the commission as may be designated by
24 it to exercise such powers.

25 The commission is authorized in the name of the state
26 to enforce the provisions of this act and the rules, regula-
27 tions and orders issued pursuant thereto by injunction or
28 other legal process in the courts of this state.

Sec. 21. *Use of State and Municipal Facilities and Ser-*
2 *vices.*—In carrying out the provisions of this act the com-
3 mission may use the facilities and services of other agen-
4 cies of the state and of the municipalities of the state to
5 the utmost extent possible, and such agencies and munici-
6 palities are authorized and directed to make available
7 their facilities and services.

Sec. 22. *Commission Orders, Notices and Opportunity*
2 *for Hearings.*—Every order of the commission requiring
3 performance of certain acts or compliance with certain
4 requirements and any denial or revocation of an approval,

5 certificate or license shall set forth the reasons and shall
6 state the acts to be done or requirements to be met before
7 approval by the commission will be given or the approval,
8 license or certificate granted or restored or the order modi-
9 fied or changed. Orders issued by the commission pur-
10 suant to the provisions of this act shall be served upon the
11 persons affected either by registered mail or in the manner
12 provided by chapter fifty-six, article two, section one,
13 code of one thousand nine hundred thirty-one. In every
14 case where notice and opportunity for hearing are re-
15 quired under the provisions of this act, the order of the
16 commission shall, on not less than ten days' notice, specify
17 a time when and place where the person affected may be
18 heard, or the time within which he may request hearing,
19 and such order shall become effective upon the expiration
20 of the time for exercising such opportunity for hearing
21 unless a hearing is held or requested within the time pro-
22 vided, in which case the order shall be suspended until
23 the commission shall affirm, disaffirm or modify such or-
24 der after hearing held or default by the person affected.

Sec. 23. *Judicial Review of Commission's Action.*—Any

2 person aggrieved by any final order of the commission
3 shall have the right to a judicial review of the action of
4 the commission, upon certiorari by the circuit court of
5 Kanawha county, West Virginia. The granting of such
6 review, upon certiorari, shall be within the sound discre-
7 tion of the judge of the said circuit court. A petition for
8 such review must be filed with the said court, or with the
9 judge thereof in vacation, within a period of thirty days
10 from the date of entry of the final order complained of.
11 An appeal from any final order entered by the said cir-
12 cuit court upon granting such writ of certiorari may be
13 had by application to the supreme court of appeals of
14 West Virginia for a writ of error and supersedeas. Such
15 application to the supreme court of appeals shall be made
16 within thirty days of the entry of the order appealed from
17 by the said circuit court: *Provided, however,* That when
18 either the circuit court or the supreme court of appeals
19 has taken jurisdiction of any such case, such court may,
20 in its sound discretion, refuse a stay of execution or super-
21 sedeas to the order of the commission or any portion
22 thereof during the time that the case is pending before

23 the said court, if the court is of the opinion that the order
24 of the commission or a part of such order is reasonable
25 and has been issued for the protection of the public safety.

Sec. 24. *Penalties for violation of Provisions of this*
2 *Article.*—Any person violating any of the provisions of
3 this act, for which the penalty is not otherwise provided,
4 or any of the rules, regulations or orders issued pursuant
5 thereto, shall be punishable by a fine of not more than
6 five hundred dollars or by imprisonment for not more
7 than thirty days, or both.

8 For any violation of sections eleven and twelve of this
9 article, in addition to the penalties provided by the said
10 sections, or as a condition to the suspension of a sentence
11 which may be imposed pursuant thereto, the court in its
12 discretion may prohibit the violator from operating air-
13 craft within the state for such period as it may determine,
14 but not to exceed one year. Violation of the duly imposed
15 prohibition of the court may be treated as a separate of-
16 fense under this section or as a contempt of court. In no
17 event shall this section be construed as a warrant for the
18 court or any other agency or person to take away, im-

19 pound, hold or mark any federal airman or aircraft cer-
20 tificate, permit, rating or license.

Sec. 25. *Exchange of Violations Information.*—The
2 commission is authorized to report to the appropriate fed-
3 eral agencies and agencies of other states all proceedings
4 instituted charging violations of sections eleven, twelve
5 and fourteen of this article and all penalties, of which it
6 has knowledge, imposed upon airmen or the owners or
7 operators of aircraft for violations of the law of this state
8 relating to aeronautics or for violations of the rules, regu-
9 lations or orders of the commission. The commission is
10 authorized to receive reports of penalties and other data
11 from agencies of the federal government and other states
12 and, when necessary, to enter into agreements with fed-
13 eral agencies and the agencies of other states governing
14 the delivery, receipt, exchange and use of reports and data.
15 The commission may make the reports and data of the
16 federal agencies, the agencies of other states, and the
17 courts of this state available, with or without request
18 therefor, to any and all courts of this state, and to any
19 officer of the state or of a municipality authorized to

20 enforce the aeronautics laws of this state.

Sec. 26. *Severability*.—If any provision of this act or
2 the application thereof to any person or circumstance shall
3 be held invalid, such invalidity shall not affect the pro-
4 visions or applications of this act which can be given ef-
5 fect without the invalid provisions or application, and to
6 this end the provisions of this act are declared to be sever-
7 able.

Sec. 27. *Repeal*.—All acts or parts or acts inconsistent
2 with the provisions of this act are hereby repealed.

Sec. 28. *Short Title*.—This act may be cited as the “State
2 Aeronautics Commission Act.”

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Forest L. McKeen
Chairman Senate Committee

R. H. Maechern
Chairman House Committee

Originated in the

Senate

Takes effect

90 days from

passage.

Howard Myers
Clerk of the Senate

L. A. Huff
Clerk of the House of Delegates

Donald M. Dickens
President of the Senate

John P. Amor
Speaker House of Delegates

The within

Approved

this the

8th

day of

March

, 1947.

Glenn Moser
Governor.



Filed in the Office of the Secretary of State
of West Virginia. **MAR 10 1947**
V. S. C. B. C. S.
SECRETARY OF STATE