

TITLE 21
AERONAUTICS

CHAPTER 2
STATE LAW FOR AERONAUTICS

21-201. DEFINITION OF TERMS. a. The term "aircraft" means any contrivance now known or hereafter invented, used, or designed for navigation of or flight in the air, except a parachute or other contrivance designed for such navigation but used primarily as safety equipment.

b. The term "airman" means any individual (including the person in command, and any pilot, mechanic or member of the crew) who engages in the navigation of aircraft while under way, and any individual who is in charge of the inspection, overhauling or repairing of aircraft.

c. The term "passenger" includes any person riding in an aircraft, but having no part in its operation.

[(21-201) 1931, ch. 100, sec. 1, p. 178; I.C.A., sec. 21-101.]

21-202. SOVEREIGNTY IN SPACE. Sovereignty in space above the lands and waters of this state is declared to rest in the state, except where granted to and assumed by the United States pursuant to a constitutional grant from the people of this state.

[(21-202) 1931, ch. 100, sec. 2, p. 178; I.C.A., sec. 21-102.]

21-203. OWNERSHIP OF SPACE. The ownership of the space above the lands and waters of this state is declared to be vested in the several owners of the surface beneath, subject to the right of flight described in section [21-204](#).

[(21-203) 1931, ch. 100, sec. 3, p. 178; I.C.A., sec. 21-103.]

21-204. LAWFULNESS OF FLIGHT. Flight in aircraft over the lands and waters of this state is lawful, unless at such a low altitude as to interfere with the then existing use to which the land or water, or the space over the land or water, is put by the owner, or unless so conducted as to be imminently dangerous to persons or property lawfully on the land or water beneath. The landing of an aircraft on the lands or waters of another, without his consent, is unlawful except in the case of a forced landing. For damages caused by a forced landing, however, the owner or lessee of the aircraft and/or the airman shall be liable, as provided in section [21-205](#).

[(21-204) 1931, ch. 100, sec. 4, p. 178; I.C.A., sec. 21-104.]

21-205. DAMAGE ON LAND. The owner or the operator, or either of them, of every aircraft which is operated over the lands or waters of this state shall be liable for injuries or damages to persons or property on or over the land or water beneath, caused by the ascent, descent or flight of aircraft, or the dropping or falling of any object therefrom, in accordance with the rules of law applicable to torts on land in this state. If the aircraft is leased at the time of the injury to person or property, both owner and lessee shall be thus liable, and they may be sued jointly, or either or both of them may be sued separately. The injured person, or owner or bailee of the injured

property, shall have a lien on the aircraft causing the injury to the extent of the actionable damage caused by the aircraft or objects falling from it.

[(21-205) 1931, ch. 100, sec. 5, p. 178; I.C.A., sec. 21-105.]

21-206. COLLISION OF AIRCRAFT. The liability of the owner of one aircraft to the owner of another aircraft, or to airmen or passengers on either aircraft, for damage caused by collision on land or in the air, shall be determined by the rules of law applicable to torts on land.

[(21-206) 1931, ch. 100, sec. 6, p. 178; I.C.A., sec. 21-106.]

21-207. JURISDICTION OVER CRIMES AND TORTS. All crimes, torts and other wrongs committed by or against an airman or passenger while in flight over this state shall be governed by the laws of this state; and the question whether damage occasioned by or to an aircraft while in flight over this state constitutes a tort, crime or other wrong by or against the owner of such aircraft, shall be determined by the laws of this state, so far as not governed by federal laws at any time.

[(21-207) 1931, ch. 100, sec. 7, p. 178; I.C.A., sec. 21-107.]

21-208. JURISDICTION OVER CONTRACTS. All contractual and other legal relations entered into by airmen or passengers while in flight over this state shall have the same effect as if entered into on the land or water beneath.

[(21-208) 1931, ch. 100, sec. 8, p. 178; I.C.A., sec. 21-108.]

21-209. UNIFORMITY OF INTERPRETATION. This act shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states which enact it, and to harmonize, as far as possible, with the United States Air Commerce Act of 1926, the regulations thereunder and other federal laws and regulations on the subject of aeronautics.

[(21-209) 1931, ch. 100, sec. 9, p. 178; I.C.A., sec. 21-109.]

21-210. SHORT TITLE. This act shall be known and cited as the Uniform State Law for Aeronautics.

[(21-210) 1931, ch. 100, sec. 10, p. 178; I.C.A., sec. 21-110.]

21-211. PROCEEDS OF LICENSES AND FINES -- STATE AERONAUTICS FUND. All moneys collected for the licensing of aircraft and airmen, all fines and penalties paid under the provisions of laws relating to or regulating the operation, registration or licensing of aircraft or pilots, air safety or air flight not otherwise appropriated and such other funds as may be paid into the state aeronautics fund shall be paid to the state treasurer, and shall be placed by him in the state aeronautics fund, which is hereby created, and all of said state aeronautics fund is hereby appropriated for the purpose of furthering the administration, development and enforcement of laws relating to aviation, for defraying state air flight program costs, and for defraying administrative expenses of the Idaho transportation department, including per diem compensation of the Idaho transportation board, and the salary of the director of the department. Interest earned on the investment of idle

moneys in the state aeronautics fund shall be paid to the state aeronautics fund.

[I.C., sec. 21-211, as added by 1957, ch. 150, sec. 2, p. 249; am. 1973, ch. 163, sec. 1, p. 310; am. 1974, ch. 12, sec. 105, p. 61; am. 2001, ch. 94, sec. 1, p. 242; am. 2011, ch. 58, sec. 1, p. 122.]

21-213. RESTRICTIONS ON USE OF UNMANNED AIRCRAFT SYSTEMS -- DEFINITION -- VIOLATION -- CAUSE OF ACTION AND DAMAGES.

(1) (a) For the purposes of this section, the term "unmanned aircraft system" (UAS) means an unmanned aircraft vehicle, drone, remotely piloted vehicle, remotely piloted aircraft or remotely operated aircraft that is a powered aerial vehicle that does not carry a human operator, can fly autonomously or remotely and can be expendable or recoverable.

(b) Unmanned aircraft system does not include:

(i) Model flying airplanes or rockets, including but not necessarily limited to those that are radio-controlled or otherwise remotely controlled and that are used purely for sport or recreational purposes; and

(ii) An unmanned aircraft system used in mapping or resource management.

(2) (a) No person, entity or state agency shall use an unmanned aircraft system to intentionally conduct surveillance of, gather evidence or collect information about, or photographically or electronically record specifically targeted persons or specifically targeted private property, including but not limited to:

(i) An individual or a dwelling owned by an individual and such dwelling's curtilage, without such individual's written consent;

(ii) A farm, dairy, ranch or other agricultural industry, or commercial or industrial property, without the written consent of the property owner.

(b) No person, entity, or local, state, or federal agency shall use an unmanned aircraft system to photograph or otherwise record an individual, without such individual's written consent, for the purpose of publishing or otherwise publicly disseminating such photograph or recording.

(c) Nothing in this section shall be construed to prohibit any law enforcement agency, fire department, or other local or state government entity from using an unmanned aircraft system:

(i) To assist with traffic accident documentation or reconstruction;

(ii) To assist with crowd or traffic management of an event by providing an aerial perspective of the public streets and intersections leading to and from a sports or entertainment arena, fairgrounds, stadium, convention hall, special event center, amusement facility, outdoor concert venue, plaza, or special event area, provided that the law enforcement agency shall not issue traffic infraction citations based solely on images or video captured by an unmanned aircraft system;

(iii) To assess damage due to a natural disaster or fire;

(iv) For the training of persons in the operation and use of an unmanned aircraft system, provided that any images or video captured during a training shall not be used as evidence in any crim-

inal proceeding and shall comply with the provisions of this section;

(v) To assist in search and rescue operations, crime scene investigations, or temporary law enforcement use of an unmanned aircraft system to respond to emergencies in which there is an imminent threat to lives or property, or to respond to an emergency affecting public safety; or

(vi) Following the issuance of a warrant, where a warrant is required under Idaho or federal law.

(3) Any person who is the subject of prohibited conduct under subsection (2) of this section shall:

(a) Have a civil cause of action against the person, entity, or local, state, or federal agency for such prohibited conduct; and

(b) Be entitled to recover from any such person, entity, or local, state, or federal agency damages in the amount of the greater of one thousand dollars (\$1,000) or actual and general damages, plus reasonable attorney's fees and other litigation costs reasonably incurred.

(4) An owner of facilities located on lands owned by another under a valid easement, permit, license or other right of occupancy is not prohibited in this section from using an unmanned aircraft system to aerially inspect such facilities.

[21-213, added 2013, ch. 328, sec. 1, p. 859; am. 2020, ch. 282, sec. 1, p. 822.]

CHAPTER 3 IDAHO AIR COMMERCE ACT OF 1929 -- [REPEALED]