

TITLE 21
AERONAUTICS

CHAPTER 1
AERONAUTICS ADMINISTRATION

21-101. DEFINITIONS. As used in this chapter, unless the context otherwise requires:

(a) "Aeronautics" means the science and art of flight and including, but not limited to, transportation by aircraft; the operation, construction, repair or maintenance of aircraft, aircraft power plants and accessories, including the repair, packing, and maintenance of parachutes; the design, establishment, construction, extension, operation, improvement, repair or maintenance of airports or other air navigation facilities; and instruction in flying or ground subjects pertaining thereto.

(b) "Aircraft" means any contrivance now known, or hereafter invented, used or designed for navigation of or flight in the air for the carriage of pilots or passengers. For the purposes of this chapter, the term "aircraft" does not include parachutes or paragliders constructed primarily of fabric.

(c) "Airport" means any area of land or water which is used, or intended for use, for the landing and take-off of aircraft, and any appurtenant areas which are used, or intended for use, for airport buildings or other airport facilities or rights-of-way, together with all airport buildings and facilities located thereon. The term "airport" shall include such other common terms as aviation field, airfield, intermediate landing field, landing field, landing area, airstrip and landing strip. For the purposes of this chapter, the term "airport" refers to a publicly owned and managed facility that is open for public use without operational restrictions on its use.

(d) "Department" means the Idaho transportation department.

(e) "Director" means the director of the Idaho transportation department.

(f) "State" or "this state" means the state of Idaho.

(g) "Air navigation facility" means any facility, other than one owned or operated by the United States, used in, available for use in, or designed for use in, aid of air navigation, including any structures, mechanisms, lights, beacons, markers, communicating systems, or other instrumentalities, or devices used or useful as an aid, or constituting an advantage or convenience, to the safe takeoff, navigation, and landing of aircraft, or the safe and efficient operation or maintenance of an airport, and any combination of any or all of such facilities.

(h) "Operation of aircraft" or "operate aircraft" means the navigation or piloting of aircraft in the airspace over this state or upon any airport within this state.

(i) "Airman" means any individual who engages, as the person in command or as pilot, mechanic, or member of the crew, in the navigation of aircraft while under way, and any individual who is directly in charge of the inspection, maintenance, overhauling, or repair of aircraft engines, propellers, or appliances, and any individual who serves in the capacity of aircraft dispatcher, or air traffic control tower operator; but does not include any individual employed outside the United States, or any individual employed by a manufacturer of aircraft, aircraft engines, propellers, or appliances, to perform duties as inspector or mechanic in connection therewith, or any in-

dividual performing inspection or mechanical duties in connection with aircraft owned or operated by him.

(j) "Aeronautics instructor" means any individual who for hire or reward engages in giving instruction or offering to give instruction in flying or ground subjects pertaining to aeronautics; but excludes any instructor in a public school, university, or institution of higher learning duly accredited and approved for carrying on collegiate work, who instructs in flying or ground subjects pertaining to aeronautics, only in the performance of his duties at such school, university or institution.

(k) "Air school" means:

(1) Any aeronautics instructor who advertises, represents or holds out as giving or offering to give instruction in flying or ground subjects pertaining to aeronautics; and

(2) Any person who advertises, represents or holds out as giving or offering to give instruction in flying or ground subjects pertaining to aeronautics whether for or without hire or reward;

but excludes any public school, or university, or institution of higher learning duly accredited and approved for carrying on collegiate work.

(l) "Person" means any individual, firm, partnership, corporation, company, association, joint stock association, or body politic, and includes any trustee, receiver, assignee, or other similar representative thereof.

(m) "Municipality" means any county, city, district or other political subdivision or public corporation of this state. "Municipal" means pertaining to a municipality as herein defined.

(n) "Aviation hazard" means any new or existing structure, object of natural growth, use of land, or modification thereto, that endangers the lives and property of users of an airport, or of occupants of land in its vicinity, and that reduces the size of the area available for landing, taking off and maneuvering of aircraft, or extends up into the airspace between airports to cause disastrous and needless loss of life and property.

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

(p) "Board" means the Idaho transportation board.

(q) "Public transportation" means rail, mass transit and any other public transportation activities in which the state may become involved.

[21-101, added 1947, ch. 153, sec. 1, p. 378; am. 1974, ch. 12, sec. 95, p. 61; am. 2005, ch. 174, sec. 1, p. 537; am. 2013, ch. 107, sec. 1, p. 251.]

21-102. DECLARATION OF PURPOSE. It is hereby declared that the purpose of this act is to further the public interest and aeronautical progress:

(a) By providing for the protection and promotion of safety in aeronautics;

(b) By cooperating in effecting uniformity of the laws and regulations relating to the development and regulation of aeronautics in the several states consistent with federal aeronautics laws and regulations;

(c) By granting to a state agency such powers and imposing upon it such duties that the state may properly perform its functions relative to aeronautics and effectively exercise its jurisdiction over persons and property within such jurisdiction, assist in the development of a statewide system

of airports, cooperate with and assist the municipalities of this state and others engaged in aeronautics, and encourage and develop aeronautics;

(d) By establishing only such regulations as are essential in order that persons engaged in aeronautics of every character may so engage with the least possible restriction, consistent with the safety and the rights of others; and

(e) By providing for cooperation with the federal authorities in the development of a national system of civil aviation and for coordination of the aeronautical activities of those authorities and the authorities of this state.

[21-102, added 1947, ch. 153, sec. 2, p. 378.]

21-104. DEVELOPMENT OF AERONAUTICS. (a) General supervision. The department shall have general supervision over aeronautics within this state. It is empowered and directed to encourage, foster, and assist in the development of aeronautics in this state and to encourage the establishment of airports and air navigation facilities. It shall cooperate with and assist the federal government, the municipalities of this state, and other persons in the development of aeronautics and shall seek to coordinate the aeronautical activities of these bodies and persons. Municipalities are authorized to cooperate with the department in the development of aeronautics and aeronautics facilities in this state.

(b) Aerial search. Aerial search operations for lost aircraft and air-men shall be coordinated by the department, division of aeronautics, under the direction and supervision of the chief of the Idaho office of emergency management within the military division.

[21-104, added 1947, ch. 153, sec. 4, p. 378; am. 1974, ch. 12, sec. 96, p. 61; am. 1992, ch. 149, sec. 1, p. 447; am. 2013, ch. 107, sec. 2, p. 253; am. 2016, ch. 118, sec. 1, p. 331.]

21-105. MUNICIPAL AIRPORTS. (a) Technical Services of the Department. The department may, insofar as is reasonably possible, make available its engineering and other technical services, with or without charge, to any municipality or person desiring them in connection with the planning, acquisition, construction, improvement, maintenance or operation of airports or air navigation facilities.

(b) State Financial Assistance. The department may render financial assistance by grant or loan or both to any municipality or municipalities acting jointly, in the planning, acquisition, construction, improvement, maintenance, or operation of an airport owned or controlled, or to be owned or controlled by such municipality or municipalities, out of appropriations made by the legislature for such purposes. Such financial assistance may be furnished in connection with federal or other financial aid for the same purposes.

(c) Federal Aid. The department is authorized to act as agent of any municipality or municipalities acting jointly, upon the request of such municipality or municipalities, in accepting, receiving, receipting for and disbursing federal moneys, and other moneys public or private, made available to finance, in whole or part, the planning, acquisition, construction, improvement, maintenance, or operation of a municipal airport or air navigation facility; and if requested by such municipality or municipalities may act as its or their agent in contracting for and supervising such planning,

acquisition, construction, improvement, maintenance or operation; and all municipalities are authorized to designate the department their agent for the foregoing purposes. The department, as principal on behalf of the state, and any municipality, on its own behalf, may enter into any contracts, with each other or with the United States or with any person, which may be required in connection with a grant or loan of federal moneys for municipal airport or air navigation facility purposes. All federal moneys accepted under this section shall be accepted and transferred or expended by the department upon such terms and conditions as are prescribed by the United States. All moneys received by the department pursuant to this section shall be deposited in the state treasury, and, unless otherwise prescribed by the authority from which such moneys were received, shall be kept in separate funds designated according to the purposes for which the moneys were made available, and held by the state in trust for such purposes. All such moneys are hereby appropriated for the purposes for which the same were made available, to be disbursed or expended in accordance with the terms and conditions upon which they were made available.

[21-105, added 1947, ch. 153, sec. 5, p. 378; am. 1975, ch. 113, sec. 1, p. 232; am. 2013, ch. 12, sec. 1, p. 22.]

21-106. STATE AIRPORTS. (a) Establishment, Operation, Maintenance. The department is authorized on behalf of and in the name of the state, out of appropriations and other moneys made available for such purposes, to plan, establish, construct, enlarge, improve, maintain, equip, operate, regulate, protect and police airports and air navigation facilities, either within or without the state. For such purposes the department may, by purchase, gift, devise, lease, condemnation or otherwise, acquire property, real or personal, or any interest therein including easements in aviation hazards or land outside the boundaries of an airport or airport site, as are necessary to permit safe and efficient operation of the airports or to permit the removal, elimination, hazard-marking or hazard-lighting of aviation hazards, or to prevent the establishment of aviation hazards. In like manner the department may acquire existing airports and air navigation facilities, provided however it shall not acquire or take over any airport or air navigation facility owned or controlled by a municipality of this or any other state without the consent of such municipality. The department may by sale, lease, or otherwise, dispose of any such property, airport, air navigation facility, or portion thereof or interest therein. Such disposal by sale, lease, or otherwise, shall be in accordance with the laws of this state governing the disposition of other property of the state, except that in the case of disposals to any municipality or state government or the United States for aeronautical purposes incident thereto, the sale, lease, or other disposal may be effected in such manner and upon such terms as the department may deem in the best interest of the state.

(b) Airport Zoning. Nothing contained in this chapter shall be construed to limit any right, power or authority of the state or a municipality to regulate aviation hazards by zoning.

(c) Joint Operations. The department may exercise any powers granted by this section jointly with any municipalities or agencies of the state government, with other states or their municipalities, or with the United States.

(d) Condemnation. In the condemnation of property authorized by this section, the department shall proceed in the name of the state in the manner

provided by [chapter 7, title 7](#), Idaho Code. For the purpose of making surveys and examinations, relative to any condemnation proceedings, it shall be lawful to enter upon any land, doing no unnecessary damage.

(e) Federal Aid. The department is authorized to accept, receive, receipt for, disburse and expend federal moneys, and other moneys public or private, made available to accomplish, in whole or in part, any of the purposes of this section. All federal moneys accepted under this section shall be accepted and expended by the department upon such terms and conditions as are prescribed by the United States. In accepting federal moneys under this section, the department shall have the same authority to enter into contracts on behalf of the state as is granted to the department under section [21-105\(c\)](#), Idaho Code, with respect to federal moneys accepted on behalf of municipalities. All moneys received by the department pursuant to this section shall be deposited in the state treasury, and, unless otherwise prescribed by the authority from which such moneys were received, shall be kept in separate funds designated according to the purposes for which the moneys were made available, and held by the state in trust for such purposes. All such moneys are hereby appropriated for the purpose of which the same were made available, to be disbursed or expended in accordance with the terms and conditions upon which they were made available.

[21-106, added 1947, ch. 153, sec. 6, p. 378; am. 2005, ch. 174, sec. 2, p. 539.]

21-107. STATE AIRWAYS, CHARTS AND BULLETINS. The department may designate, design, and establish, expand, or modify a state airways system which will best serve the interest of the state. It may chart such airways system and arrange for publication and distribution of such maps, charts, notices and bulletins relating to such airways as may be required in the public interest. The system shall be supplementary to and coordinated in design and operation with the federal airways system. It may include all types of air navigation facilities, whether publicly or privately owned, provided that such facilities conform to federal safety standards.

[21-107, added 1947, ch. 153, sec. 7, p. 378.]

21-108. CONTRACTS -- LAW GOVERNING. The department may enter into any contracts necessary to the execution of the powers granted it by this act. All contracts made by the department, either as the agent of the state or of any municipality, shall be made pursuant to the laws of the state governing the making of like contracts; provided, however, that where the planning, acquisition, construction, improvement, maintenance, or operation of any airport, or air navigation facility is financed wholly or partially with federal moneys, the department[,] as agent of the state or of any municipality, may let contracts in the manner prescribed by the federal authorities acting under the laws of the United States and any rules or regulations made thereunder.

[21-108, added 1947, ch. 153, sec. 8, p. 378.]

21-109. EXCLUSIVE RIGHTS. The department shall grant no exclusive right for the use of any airway, airport, or air navigation facility under its jurisdiction, but this section shall not be construed to prevent the

making of contracts, leases and other arrangements pursuant to section [21-106](#).

[21-109, added 1947, ch. 153, sec. 9, p. 378.]

21-110. PUBLIC PURPOSE OF ACTIVITIES. The acquisition of any lands or interest therein pursuant to this act, the planning, acquisition, establishment, construction, improvement, maintenance, equipment, and operation of airports and air navigation facilities, whether by the state separately or jointly with any municipality or municipalities and the exercise of any other powers herein granted to the department 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.

[21-110, added 1947, ch. 153, sec. 10, p. 378.]

21-111. RULES, REGULATIONS, STANDARDS. (a) Power to Issue. The department may perform such acts, issue and amend such orders, and make, promulgate, and amend such reasonable general or special rules, regulations and procedures, and establish such minimum standards, consistent with the provisions of this act, as it shall deem necessary to carry out the provisions of this act and to perform its duties hereunder; all commensurate with and for the purpose of protecting and insuring the general public interest and safety, the safety of persons operating, using or traveling in aircraft or persons receiving instructions in flying or ground subjects pertaining to aeronautics, and the safety of persons and property on land or water, and developing and promoting aeronautics in this state. No rule or regulation of the department shall apply to airports or air navigation facilities owned or operated by the United States.

(b) Conformity to Federal Enactments, Rules and Regulations. All rules and regulations prescribed by the department under the authority of this act shall be kept in conformity(,) with the then current federal enactment governing aeronautics and the rules, regulations, and standards duly issued thereunder.

(c) Distribution. The department shall provide for the publication and general distribution of all its orders, rules, regulations and procedures having general effect.

[21-111, added 1947, ch. 153, sec. 11, p. 378.]

21-112. RECKLESS OPERATION OF AIRCRAFT. It shall be unlawful for any person to operate an aircraft in the air, or on the ground or water, in a careless or reckless manner so as to endanger the life or property of another.

In any proceeding charging careless or reckless operation of aircraft in violation of this section, the court or jury, in determining whether the operation was careless or reckless, may consider the standards for safe operation of aircraft prescribed by federal statutes, federal regulations governing aeronautics and the rules, regulations and standards promulgated by the department.

[21-112, added 1947, ch. 153, sec. 12, p. 378; am. 1989, ch. 229, sec. 1, p. 545.]

21-112A. OPERATING AIRCRAFT WHILE UNDER THE INFLUENCE OF ALCOHOL, DRUGS OR ANY OTHER INTOXICATING SUBSTANCES. (1) It is unlawful for any person to pilot or be in actual physical control of an aircraft within this state, whether upon an airport or body of water, or in the airspace over this state:

(a) Within eight (8) hours after the consumption of any alcoholic beverage;

(b) While under the influence of alcohol;

(c) While using any drug that affects the person's faculties in any way contrary to safety; or

(d) While having an alcohol concentration of 0.04 as defined in subsection (5) of this section, or more, as shown by analysis of his blood, urine, or breath.

(2) Any person having an alcohol concentration of less than 0.04 as defined in subsection (5) of this section, as shown by analysis of his blood, urine, breath, or other bodily substance, by a test requested by an authorized law enforcement officer shall not be prosecuted for operating an aircraft while under the influence of alcohol, except as provided in subsection (3) of this section. Any person who does not take a test to determine alcohol concentration or whose test result is determined by the court to be unreliable or inadmissible against him, may be prosecuted for piloting or being in actual physical control of an aircraft while under the influence of alcohol, drugs, or any other intoxicating substances, on other competent evidence.

(3) If the results of the test requested by an authorized law enforcement officer show a person's alcohol concentration of less than 0.04, as defined in subsection (5) of this section, such fact may be considered with other competent evidence of drug use other than alcohol in determining the guilt or innocence of the defendant.

(4) Persons authorized to withdraw blood for the purposes of determining content of alcohol or other intoxicating substances are those persons authorized in section [18-8003](#), Idaho Code.

(5) For purposes of this chapter, an evidentiary test for alcohol concentration is a determination of the percent by weight of alcohol in blood and shall be based upon a formula of grams of alcohol per one hundred (100) cubic centimeters of blood, per two hundred ten (210) liters of breath or sixty-seven (67) milliliters of urine. Analysis of blood, urine or breath for the purpose of determining the blood alcohol concentration shall be performed by a laboratory operated by the Idaho state police or by a laboratory approved by the Idaho state police under the provisions of approval and certification standards to be set by that department, or by any other method approved by the Idaho state police. Notwithstanding any other provision of law or rule of court, the results of any test for alcohol concentration and records relating to calibration, approval, certification or quality control performed by a laboratory operated or approved by the Idaho state police or by any other method approved by the Idaho state police shall be admissible in any proceeding in this state without the necessity of producing a witness to establish the reliability of the testing procedure for examination.

(6) It is unlawful for any person who is an habitual user of, or under the influence of any narcotic drug, or who is under the influence of any other drug or any combination of alcohol and any drug to a degree which renders him incapable of safely piloting an aircraft, to pilot or be in actual physical

control of an aircraft on an airport, body of water, or in the airspace above the state of Idaho. The fact that any person charged with a violation of the provisions of this subsection is or has been entitled to use such drug under the laws of this state shall not constitute a defense against any charge of a violation of the provision of this subsection.

(7) Notwithstanding any other provision of law, any evidence of conviction under this section shall be admissible in any civil action for damages resulting from the occurrence. A conviction for the purposes of this section means that the person has pled guilty or has been found guilty, notwithstanding the form of the judgment or withheld judgment.

[21-112A, added 1989, ch. 229, sec. 2, p. 545; am. 2000, ch. 469, sec. 55, p. 1507.]

21-112B. TEST OF PILOT FOR ALCOHOL CONCENTRATION. (1) Any person who pilots or is in actual physical control of an aircraft in this state shall be deemed to have given his consent to an evidentiary test for concentration of alcohol, drugs or other intoxicating substances as defined in section [21-112A](#), Idaho Code, provided that such test is administered at the request of a police officer having reasonable grounds to believe that person has been piloting or has been in actual physical control of an aircraft while under the influence of alcohol, drugs or of any other intoxicating substances.

(2) Such person shall not have the right to consult with an attorney before submitting to an evidentiary test for concentration of alcohol, drugs or other intoxicating substances.

(3) At the time an evidentiary test for concentration of alcohol, drugs or other intoxicating substances is requested, the person shall be informed that if he refuses to take the test:

- (a) That an affidavit of such fact will be filed with the administrator of the federal aviation agency;
- (b) That such refusal could result in the suspension or revocation of the person's certificate or rating, or denial of application for a certificate or rating, under federal aviation regulations; and
- (c) That after submitting to the test he may, when practicable, at his own expense, have additional tests made by a person of his own choosing.

[21-112B, added 1989, ch. 229, sec. 3, p. 547.]

21-113. FEDERAL AIRMAN AND AIRCRAFT CERTIFICATES. (a) Operation Without Unlawful. It shall be unlawful for any person to operate, cause, or authorize to be operated any civil aircraft within this state unless such aircraft has an appropriate effective certificate, permit or license issued by the United States, if such certificate, permit or license is required by the United States.

It shall be unlawful for any person to engage in aeronautics as an airman in the state unless he has an appropriate effective airman certificate, permit, rating or license issued by the United States authorizing him to engage in the particular class of aeronautics in which he is engaged, if such certificate, permit, rating or license is required by the United States.

(b) Exhibition of Certificates. Where a certificate, permit, rating or license is required for an airman by the United States, it shall be kept in his personal possession when he is operating within the state and shall be presented for inspection upon the demand of any peace officer, or any other law enforcement officer of the state or of a municipality or official or em-

ployee of the department authorized pursuant to section [21-119](#) to enforce the aeronautics laws, or any official, manager or person in charge of any airport upon which the airman shall land, or upon the reasonable request of any other person. Where a certificate, permit or license is required by the United States for an aircraft, it shall be carried in the aircraft at all times while the aircraft is operating in the state, shall be conspicuously posted in the aircraft where it may be readily seen by passengers or inspectors, and shall be presented for inspection upon the demand of any peace officer, or any other law enforcement officer of the state or of a municipality official or employee of the department authorized pursuant to section [21-119](#) to enforce the aeronautics laws, or any official, manager or person in charge of any airport upon which the aircraft shall land, or upon the reasonable request of any person.

[21-113, added 1947, ch. 153, sec. 13, p. 378.]

21-114. REGISTRATION OF AIRCRAFT -- REQUISITES. (a) Fees.

(1) Subject to the limitations of subsections (b) and (c) of this section, every aircraft operating within this state shall be registered with the department prior to or during each annual registration year in which the aircraft is operated within this state. The annual registration year shall commence on the date provided by regulation, and the holding of a currently valid airworthiness certificate and a currently valid annual inspection or progressive inspection system issued by the appropriate federal agency during any part of the registration year shall be considered prima facie evidence that the aircraft is operating within this state. The department shall charge for each such registration, and for each annual renewal thereof, fees at the rate of three cents (3¢) per pound of the manufacturer's certified maximum gross weight authorized in the aircraft specification or type certificate data sheet of said aircraft issued by the federal aviation administration, and in no case to be less than twenty dollars (\$20.00) and not to exceed six hundred dollars (\$600) upon any one (1) aircraft, provided that such fee shall be in lieu of all personal property taxes on such aircraft.

Those aircraft in nonairworthy condition that are not operated during any part of the registration year are not required to register but may, at the owner's discretion, be registered in lieu of personal property tax.

Registration certificates shall be kept in the aircraft at all times. In addition to the registration certificate, an identifying decal shall be issued and placed on the left side of the aircraft either upon the vertical stabilizer thereof or upon a window nearest to the rear of the aircraft, fully visible from the outside of the aircraft.

Aircraft shall only be registered prior to or during the current annual registration year. There shall be no registration of aircraft for any registration period which is prior to the current registration year. Registration certificates for aircraft newly purchased or acquired, or aircraft imported into the state after expiration of the first six (6) months of the current annual registration year, as prescribed by the department, shall be issued at the rate of fifty percent (50%) of the annual fee. Those aircraft found in violation of the provisions of this section after the first six (6) months will pay the full year's fee and shall, at the discretion of the director, be

referred to the respective county assessor for collection of personal property tax.

(2) Manufacturers and dealers license. It shall be unlawful for any person to carry on or conduct the business of buying, selling, or dealing in aircraft unless registered with the department, as such manufacturer or dealer. Any manufacturer or dealer in aircraft owning, having an interest in, or having in his possession an aircraft for the purpose of sale, shall upon the registration and payment of fees as in this chapter required, acquire one (1) registration certificate that shall bear the distinctive registration number issued to such manufacturer or dealer, and any number of identifying decals. The registration certificate shall be kept at the main office of the manufacturer or dealer and an identifying decal shall be placed upon the left side of every aircraft that the manufacturer or dealer may have an interest in which is held for sale, either upon the vertical stabilizer or upon a window nearest to the rear of the aircraft.

An identifying decal issued to a manufacturer or dealer during the calendar year for which issued can be transferred from an aircraft no longer in the possession of the dealer or manufacturer for sale or demonstration to one acquired for the purpose of sale or demonstration during the calendar year.

Manufacturer or dealer decals may only be used on aircraft flown for purposes of sales demonstration, ferry or test.

The fee to be paid by a manufacturer or dealer in aircraft shall be forty dollars (\$40.00) for the registration certificate and one dollar (\$1.00) for each identifying decal issued to such manufacturer or dealer.

(b) Requirements for registration, issuance of certificate. Possession of the appropriate effective federal certificate relating to ownership of the aircraft and payment of the fee duly required pursuant to the provisions of this section shall be the only requisites for registration of an aircraft under this section. Registration shall be effected by filing with the department a statement containing the information reasonably required by the department for such purpose. It shall not be necessary for the registrant to provide the department with originals or copies of federal certificates. The department shall issue certificates of registration, or such other evidences of registration and payment of fees as it may deem proper. Failure to register, if required, shall be unlawful.

(c) Exemptions. The provisions of this section shall not apply to:

(1) An aircraft owned by, and used exclusively in the service of, any government or any political subdivision thereof, including the government of the United States, any state, territory, or possession of the United States, or the District of Columbia, which is not engaged in carrying persons or property for commercial purposes;

(2) An aircraft which is owned by a bona fide nonresident of this state; provided however, that this exemption shall not apply to such aircraft operated casually or continuously in this state for a cumulative period of greater than ninety (90) days in any annual registration year;

(3) An aircraft engaged principally in commercial airline or air freight flying pursuant to the provisions of part 121, [title 14](#), of the code of federal regulations (14 CFR 121) or an equivalent foreign air carrier operating under a bilateral agreement with the United States government.

(d) Transfer of aircraft. When the ownership of an aircraft registered under the provisions of this section is transferred to a resident of this state, the new owner will be required to register the aircraft under the provisions of this section. If the transferor wishes to register another aircraft he shall pay the registration fee required by this section less the amount of registration fee already paid on the aircraft that was sold, or if the transferor shall have an aircraft to be registered with a useful load less than the aircraft that was sold, he shall pay a transfer fee of one dollar (\$1.00).

[21-114, added 1947, ch. 153, sec. 14, p. 378; am. 1949, ch. 191, sec. 1, p. 406; am. 1957, ch. 182, sec. 1, p. 354; am. 1961, ch. 32, sec. 1, p. 45; am. 1972, ch. 73, sec. 1, p. 150; am. 1974, ch. 37, sec. 1, p. 1017; am. 1980, ch. 65, sec. 1, p. 133; am. 1984, ch. 227, sec. 1, p. 544; am. 1990, ch. 321, sec. 1, p. 877; am. 2001, ch. 182, sec. 1, p. 610; am. 2005, ch. 27, sec. 1, p. 133; am. 2013, ch. 107, sec. 3, p. 253; am. 2013, ch. 108, sec. 1, p. 256.]

21-116. INVESTIGATIONS AND HEARINGS. (a) General Power, Accidents, Witnesses, Subpoenas, Court Order. The department shall have the power to hold investigations, inquiries and hearings concerning matters covered by the provisions of this act and the rules, regulations and orders of the department, and concerning accidents in aeronautics within this state, providing that the appropriate federal agency fails to act at [within] a reasonable time. Hearings shall be open to the public and, except as provided in section [21-120](#), shall be held upon such call or notice as the department shall deem advisable. The director or any employee of the department designated by the director to hold any inquiry, investigation or hearing shall have the power to administer oaths and affirmations, certify to all official acts, issue subpoenas, and order the attendance and testimony of witnesses and the production of papers, books, and documents. In case of the failure of any person to comply with any subpoena or order issued under the authority of this section, the department or its authorized representative may invoke the aid of any court of this state of general jurisdiction. The court may thereupon order such person to comply with the requirements of the subpoena or order or to give evidence touching the matter in question. Failure to obey the order of the court may be punished by the court as a contempt thereof.

(b) Use and Limitations on Reports of Investigation. In order to facilitate the making of investigations by the department in the interest of public safety and promotion of aeronautics, the public interest requires, and it is therefore provided, that the reports of investigations or hearings or any part thereof shall not be admitted in evidence or used for any purpose in any suit, action or proceeding growing out of any matter referred to in said investigation, hearing or report thereof, except in case of any suit, action or proceeding, civil or criminal, instituted by or in behalf of the department or in the name of the state under the provisions of this act or other laws of the state relating to aeronautics.

[21-116, added 1947, ch. 153, sec. 16, p. 378.]

21-117. FEDERAL-STATE JOINT HEARINGS -- RECIPROCAL SERVICES -- ACCIDENT REPORTING. (a) Joint Hearings. The department is authorized to confer with or to hold joint hearings with any agency of the United States in connec-

tion with any matter arising under this act, or relating to the sound development of aeronautics.

(b) Reciprocal Services. The department is authorized to avail itself of the cooperation, services, records and facilities of the agencies of the United States as fully as may be practicable in the administration and enforcement of this act. The department shall furnish to the agencies of the United States its cooperation, services, records and facilities, insofar as may be practicable.

(c) Accident Reporting. The department shall report to the appropriate agency of the United States all accidents in aeronautics in this state of which it is informed, and shall insofar as is practicable preserve, protect and prevent the removal of the component parts of any aircraft involved in an accident being investigated by it until the federal agency institutes an investigation.

[21-117, added 1947, ch. 153, sec. 17, p. 378.]

21-118. USE OF STATE AND MUNICIPAL FACILITIES AND SERVICES. In carrying out the provisions of this act the department may use the facilities and services of other agencies of the state and of the municipalities of the state to the utmost extent possible, and such agencies and municipalities are authorized and directed to make available their facilities and services.

[21-118, added 1947, ch. 153, sec. 18, p. 378.]

21-119. ENFORCEMENT OF AERONAUTICS LAWS. (a) Enforcement Officers. It shall be the duty of the director and employees of the department, and every state and municipal officer charged with the enforcement of state and municipal laws, to enforce and assist in the enforcement of this act and of all rules, regulations and orders issued pursuant thereto and of all other laws of this state relating to aeronautics; and in that connection each of the aforesaid persons is authorized to inspect and examine at reasonable hours any premises, and the buildings and other structures thereon, where airports, air navigation facilities, air schools, or other aeronautical activities are operated or conducted. In aid of the enforcement of this act, the rules, regulations and orders issued pursuant thereto and of all other laws of the state relating to aeronautics, general police powers are hereby conferred upon the director and such of the employees of the department as may be designated by it to exercise such powers.

(b) Court Aid. The department is authorized, in the name of the state, to enforce the provisions of this act and the rules, regulations and orders issued pursuant thereto by injunction or other legal process in the courts of this state.

[21-119, added 1947, ch. 153, sec. 19, p. 378; am. 1974, ch. 12, sec. 97, p. 61; am. 1992, ch. 149, sec. 2, p. 448.]

21-120. DEPARTMENT ORDERS -- NOTICE AND OPPORTUNITY FOR HEARINGS -- JUDICIAL REVIEW. Every order of the department requiring performance of certain acts or compliance with certain requirements and any denial or revocation of an approval, certificate or license shall set forth the reasons and shall state the acts to be done or requirements to be met before approval by the department will be given or the approval, license or certificate granted or restored or the order modified or changed. Orders issued by the depart-

ment pursuant to the provisions of this act shall be served upon the persons affected either by registered mail or in person. In every case where notice and opportunity for hearing are required under the provisions of this act, the order of the department shall, on not less than twenty (20) days' notice, specify a time when and place where the person affected may be heard, or the time within which he may request hearing, and such order shall become effective upon the expiration of the time for exercising such opportunity for hearing, unless a hearing is held or requested within the time provided, in which case the order shall be suspended until the department shall affirm, disaffirm, or modify such order after hearing held or default by the person affected. To the extent practicable, hearings on such orders shall be held in the county where the affected person resides or does business. Any person aggrieved by an order of the department or by the grant, denial or revocation of any approval, license or certificate may have the action of the department reviewed by the district court of the county in which the aggrieved person resides or has his principal place of business.

[21-120, added 1947, ch. 153, sec. 20, p. 378.]

21-121. PENALTIES -- GENERAL AND SPECIAL. (a) General. Any person violating any of the provisions of this act, or any of the rules, regulations or orders issued pursuant thereto, shall be guilty of a misdemeanor.

(b) Special. For any violation of section [21-112](#), in addition to, or in lieu of, the penalties provided by subsection (a) of this section, or as a condition to the suspension of a sentence which may be imposed pursuant thereto, the court in its discretion may revoke or suspend the violator's registration certificates for such period as it may determine but not to exceed one (1) year. Violation of the duly imposed prohibition of the court may be treated as a separate offense under this section or as a contempt of court. Upon a plea of guilty or conviction under section [21-112](#) in any case involving a registrant under section [21-114](#), the court shall cause a notation of such plea or conviction and of the sentence imposed to be marked upon the pilot certificate or other evidence of pilot registration or receipt provided by the department under said section [21-114](#). In no event shall this subsection be construed as warrant for the court or any other agency or person to take away, impound, hold or mark any federal airman or aircraft certificate, permit, rating or license, or to take away, impound or hold any state registration certificate or other evidence of such registration or payment of fees.

[21-121, added 1947, ch. 153, sec. 21, p. 378.]

21-122. EXCHANGE OF VIOLATIONS INFORMATION. The department is authorized to report to the appropriate federal agencies and agencies of other states all proceedings instituted charging violation of sections [21-112](#) and [21-113](#) and all penalties, of which it has knowledge, imposed upon airmen or the owners or operators of aircraft for violations of the rules, regulations or orders of the department. The department is authorized to receive reports of penalties and other data from agencies of the federal government and other states and, when necessary, to enter into agreements with federal agencies and the agencies of other states governing the delivery, receipt, exchange, and use of reports and data. The department may make the reports and data of the federal agencies, the agencies of other states, and the courts of this state available, with or without request therefor, to any and all courts of

this state, and to any officer of the state or of a municipality authorized pursuant to section [21-119](#) to enforce the aeronautics laws.

[21-122, added 1947, ch. 153, sec. 22, p. 378.]

21-123. SEPARABILITY. If any provision of this act or the application thereof to any person or circumstance shall be held invalid, such invalidity shall not affect the provisions of [or] application of this act which can be given effect without the invalid provisions or applications, and to this end the provisions of this act are declared to be severable.

[21-123, added 1947, ch. 153, sec. 23, p. 378.]

21-124. SHORT TITLE. This act may be cited as the "Uniform State Aeronautics Department Act."

[21-124, added 1947, ch. 153, sec. 25, p. 378.]

21-131. SHORT TITLE. This act shall be known and cited as the "Aeronautical Administration Act of 1970."

[21-131, added 1970, ch. 257, sec. 1, p. 683.]

21-132. DECLARATION OF PURPOSE. It is hereby found and declared that there exists in the state of Idaho a need to improve and expand air service capabilities to meet the increased demands of air transportation. In view of the rapid growth of this mode of passenger transportation, faster and heavier aircraft, the anticipated use of this system by industry for moving high value goods and merchandise in a minimum of time, to save handling and warehousing, planning to meet future needs is imperative. Such planning must accommodate intrastate and interstate service for passengers and freight into the national system, with implementation as rapidly as possible. The efforts of both the public and private sectors must be combined to match the aviation program planned by congress for the new millennium.

[21-132, added 1970, ch. 257, sec. 2, p. 683; am. 1974, ch. 12, sec. 98, p. 61; am. 2001, ch. 377, sec. 1, p. 1320.]

21-134. IDAHO AERONAUTICS ADVISORY BOARD CREATED -- DUTIES -- COMPENSATION. There is hereby created and established the Idaho aeronautics advisory board. The board shall consult with and advise the Idaho transportation department on matters concerning aeronautics. Members shall be compensated as provided by section [59-509](#) (h), Idaho Code.

[I.C., sec. 21-134, as added by 1974, ch. 12, sec. 99, p. 61; am. 1980, ch. 247, sec. 7, p. 586; am. 1982, ch. 95, sec. 131, p. 266; am. 1989, ch. 228, sec. 1, p. 544; am. 1994, ch. 128, sec. 1, p. 286; am. 2001, ch. 377, sec. 2, p. 1320.]

21-135. COMPOSITION OF ADVISORY BOARD -- NUMBER -- APPOINTMENT -- QUALIFICATIONS. The advisory board shall be composed of five (5) members to be appointed by the governor. All members shall be knowledgeable and have experience in aviation; provided however, one (1) member shall have particular knowledge of commercial aviation; one (1) member shall have knowledge of general aviation; one (1) member shall have particular knowledge of back-

country aviation; and one (1) member shall have particular knowledge of air freight transportation. Not more than three (3) members thereof shall at any time belong to the same political party. Provided, however, two (2) members of the advisory board shall be licensed pilots. Members shall be successful public spirited citizens of good character, well informed and interested in the construction and maintenance of aeronautical facilities. Selection and appointment shall be made solely with regard to the best interests of the various functions of the advisory board. Each member at the time of his appointment shall be a citizen and resident taxpayer of the state of Idaho, and of the members appointed to represent director districts, such member shall be a resident of the district from which he is appointed for at least three (3) years.

[21-135, added 1970, ch. 257, sec. 5, p. 683; am. 1974, ch. 12, sec. 100, p. 61; am. 1993, ch. 274, sec. 1, p. 926; am. 2001, ch. 377, sec. 3, p. 1320.]

21-136. APPOINTMENT OF MEMBERS -- TERM -- VACANCIES. For the purposes of selection of members of the advisory board of aeronautics, one (1) member shall be appointed to represent director districts no. 1 and 2, one (1) member to represent director districts no. 3 and 4, one (1) member to represent director districts no. 5 and 6, as provided in section [40-303](#), Idaho Code, and two (2) members shall be appointed from the state at-large.

The governor shall appoint, subject to confirmation by the senate, the board members for terms of five (5) years. The initial terms of the at-large members may be less than five (5) years, and shall be staggered so that not more than (1) term of any member of the board shall expire in any one (1) year. The term of each member shall begin immediately upon his appointment and qualification. Each member shall hold office after the expiration of his term until his successor has been appointed. Not less than fifteen (15) days before the expiration of the term of appointment of each member, the governor shall appoint a successor and submit the appointment to the senate for confirmation. Should any member of the board resign, die, remove from the district from which he was appointed, or otherwise be removed from office, a vacancy shall exist, and during the recess of the legislature, the governor shall within thirty (30) days appoint a successor with like qualifications, to serve for the remainder of the retiring member's unexpired term. If a vacancy occurs within forty-five (45) days after the convening of the legislature and while it is still in session, the governor shall make and submit to the senate for its approval a nomination to fill the vacancy.

[21-136, added 1970, ch. 257, sec. 6, p. 683; am. 1974, ch. 12, sec. 101, p. 61; am. 1985, ch. 253, sec. 3, p. 700; am. 1989, ch. 228, sec. 2, p. 544; am. 1996, ch. 35, sec. 1, p. 88; am. 2001, ch. 377, sec. 4, p. 1321.]

21-137. CERTIFICATES OF MEMBERS -- OATH -- POLITICAL AFFILIATION -- BOND. Each member of the board shall receive a certificate of appointment from the governor, and before entering upon the discharge of his official duties, shall file with the secretary of state the constitutional oath of office, to which and as a part thereof shall be added a declaration of the political party to which said board member belongs. Each member shall be bonded in the time, form and manner prescribed in [chapter 8, title 59](#), Idaho Code.

[21-137, added 1970, ch. 257, sec. 7, p. 683.]

21-138. MEMBERS SERVE AT PLEASURE OF GOVERNOR. Members shall serve at the pleasure of the governor.

[21-138, added 1970, ch. 257, sec. 8, p. 683.]

21-142. POWERS AND DUTIES OF BOARD. The Idaho transportation board shall be vested with the functions, powers and duties relating to the provisions of this act and shall have power to:

(1) Contract in the name of the state with respect to the rights, powers and duties vested in the board by this act.

(2) Locate, design, construct, reconstruct, alter, extend, repair and maintain state aeronautical facilities when determined by the board to be in the public interest.

(3) Establish standards for the location, design, construction, reconstruction, alteration, extension, repair and maintenance of state aeronautical facilities.

(4) Make annually on or before the first day of December of each year, and at such other times as the governor may require, reports in writing to the governor concerning the condition, management and financial transactions of the transportation department.

(5) Purchase, condemn or otherwise acquire, and exchange any real property, either in fee or in any lesser estate or interest, rights-of-way, easements and other rights together with rights of direct access from the property abutting aeronautical facilities, deemed necessary by the board for present or future aeronautical purposes. The order of the board that the land sought is necessary for such use shall be prima facie evidence of such fact.

(6) Cooperate with, receive and expend grants from the federal government, and receive and expend gifts and grants from other sources for the construction and improvement of any aeronautical facility and, when authorized or directed by any act of congress or any rule or regulation of any agency of the federal government, expend funds so donated or granted.

(7) Contract jointly with counties, municipalities and other public agencies for the improvement and construction of aeronautical facilities.

(8) Expend funds for the construction, maintenance and improvement of publicly owned aeronautical facilities.

(9) Prescribe rules and regulations affecting aeronautical facilities, and enforce compliance therewith.

(10) Cooperate financially or otherwise with any other state, county or city of any other state, or with any foreign country or any province or district of any foreign country, or with the government of the United States, or any agency thereof, or private agencies or persons, or with any or all thereof for the erecting, constructing, reconstructing, and maintaining of any aeronautical facility between the state of Idaho and any other state or foreign country, and for the purchase or condemnation or other acquisition of right-of-way therefor.

(11) Close or restrict the use of any state aeronautical facility whenever such closing or restricting of use is deemed necessary.

(12) Establish such departmental divisions as are necessary for the full and efficient administration of this act.

(13) Employ such personnel as are necessary, subject to the provisions of the public employee retirement system ([chapter 13, title 59](#), Idaho Code),

group insurance plan ([chapter 57, title 67](#), Idaho Code), or personnel system ([chapter 53, title 67](#), Idaho Code).

(14) Sell, exchange, or otherwise dispose of and convey, in accordance with law, any real or personal property, other than public lands which by the constitution and laws of the state of Idaho are placed under the jurisdiction of the state land board, or parts thereof, together with appurtenances when, in the opinion of the board, said real property and/or appurtenances are no longer needed for state aeronautical purposes, and also dispose of any surplus materials and by-products from such property and appurtenances.

(15) Establish rules and regulations, consistent with the laws of Idaho, for the expenditure of all moneys appropriated and/or allotted by law to the Idaho transportation department or the board.

(16) Exercise such other powers and duties, including the adoption of bylaws, rules and regulations, necessary to fully implement and carry out the provisions of this act and the provisions of [title 21](#), Idaho Code, not inconsistent herewith.

[21-142, added 1970, ch. 257, sec. 12, p. 683; am. 1974, ch. 12, sec. 102, p. 61; am. 2018, ch. 169, sec. 1, p. 344.]

21-146. FUNDS, APPROPRIATIONS AND OTHER MONEYS FOR THE DEPARTMENT OF AERONAUTICS TRANSFERRED TO CONTROL OF IDAHO TRANSPORTATION BOARD. All funds, appropriations and other moneys from whatever source, now or hereafter appropriated and/or provided by law for the administration of the functions, powers and duties of the department of aeronautics and/or the board including those of the state aeronautics fund, shall be and the same hereby are, respectively, transferred, made available to and placed under the control of the Idaho transportation board and appropriated for expenditure by it and shall be paid out by the state treasurer in the manner provided by the constitution and the laws of the state of Idaho. The said "state aeronautics fund" shall be in all respects the same "state aeronautics fund" as hereafter provided by law, and which said fund shall be and remain in full force and effect.

[21-146, added 1970, ch. 257, sec. 16, p. 683; am. 1974, ch. 12, sec. 103, p. 61.]

21-147. CONTINUATION OF EXISTING STATUTES -- EFFECT. The statutes of the state of Idaho now governing the administration, construction, maintenance, development and regulation of aeronautical facilities within the state, except where the same conflict with or are superseded by this act, shall continue with full force and effect, except that wherever the words "department of aeronautics," "Idaho board of aeronautical directors," "director of aeronautics" and the "state director of aeronautics" are used in the statutes of the state with respect to the administration, construction, maintenance, development and regulation of aeronautical facilities, the same shall be read and construed to mean, respectively, the "Idaho transportation board" and/or the "director of the Idaho transportation department," as the case may be. The Idaho transportation board shall be the successor in law to all contractual obligations entered into by its predecessors in law.

[21-147, added 1970, ch. 257, sec. 17, p. 683; am. 1974, ch. 12, sec. 104, p. 61.]

21-148. CONTINUATION OF RIGHTS AND PRIVILEGES OF PRESENT EMPLOYEES -- EFFECT. Nothing herein contained shall affect the rights or privileges of employees of the present department of aeronautics under the public employee retirement system ([chapter 13, title 59](#), Idaho Code), group insurance plan ([chapter 57, title 67](#), Idaho Code), or personnel system ([chapter 53, title 67](#), Idaho Code).

[21-148, added 1970, ch. 257, sec. 18, p. 683; am. 2018, ch. 169, sec. 2, p. 345.]

21-149. CONFLICTS WITH OTHER LAWS. Whenever any provisions of the existing laws of the state or of any laws enacted at the fortieth session [1969, 1970] of the Idaho legislature, are in conflict with the provisions of this act, it is the declared intention of the legislature that the provisions of this act shall control and supersede all such laws.

[21-149, added 1970, ch. 257, sec. 19, p. 683.]

21-150. VIOLATIONS -- PENALTY. Any person who shall violate or aid in the violation of any of the provisions of this act, unless a different penalty be prescribed by law, shall be guilty of a misdemeanor and upon conviction thereof be punished by a fine of not more than three hundred dollars (\$300) or imprisonment for a period not to exceed ninety (90) days or both such fine and imprisonment in the discretion of the court, and all fines collected for violation of this act shall be paid ten percent (10%) into the state's general fund and ninety percent (90%) into the state aeronautics fund.

[21-150, added 1970, ch. 257, sec. 21, p. 683.]