

TITLE 61
PUBLIC UTILITY REGULATION

CHAPTER 11
AIR CARRIER ACT

61-1101. AIR CARRIER ACT. This act shall be known as the Idaho Air Carrier Act.

[61-1101, added 1969, ch. 197, sec. 1, p. 574.]

61-1102. DEFINITIONS -- EXCLUSIONS. a. The term "person" when used in this act means any individual, firm, copartnership, corporation, company, association, or joint-stock association, and includes any trustee, receiver, assignee, or personal representative thereof.

b. The term "certificate" means a certificate of public convenience and necessity issued under this act to any air carrier.

c. The term "air carrier" means any person owning, controlling or operating aircraft as a common carrier of passengers for compensation on a scheduled basis between any two (2) intermediate or terminal points within the state of Idaho; provided, however, that this definition shall not be construed to prevent the carriage of passengers or property for hire by an air carrier operating in interstate commerce under certification by the civil aeronautics board.

d. The term "common air carrier" means any person which holds itself out to the general public to engage in the transportation by aircraft in commerce of passengers or property for compensation.

e. The term "aircraft" shall mean any machine heavier than air supported for flight by dynamic action of air upon its surfaces, and which is used for the transportation of persons or property in the air.

f. The term "commission" means the Idaho Public Utilities Commission.

g. The term "transportation" to which this act applies includes all aircraft operated by, for, or in the interest of any air carrier irrespective of ownership or contract, express or implied, together with all services, facilities and property furnished, operated or controlled by any such air carrier or carriers and used in the transportation of passengers and/or property in commerce in the state of Idaho.

h. Nothing in this act shall be construed to cover or include aircraft or transportation used solely in connection with:

1. The transportation or handling of United States mail;
2. Interstate or foreign commerce;
3. Instruction;
4. Charter service on a nonscheduled basis;
5. Aerial application of agricultural chemicals;
6. Air passenger carrier certificated by the civil aeronautics board in interstate commerce; or,
7. The transportation of persons or property on a contractual basis for federal, state, or local governments.

i. The term "director" means the director of the Idaho transportation department.

[61-1102, added 1969, ch. 197, sec. 2, p. 574; am. 1974, ch. 12, sec. 115, p. 61.]

61-1103. OPERATIONAL RIGHTS. No air carrier shall operate aircraft except in accordance with the provisions of this act.

[61-1103, added 1969, ch. 197, sec. 3, p. 574.]

61-1104. CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY REQUIRED -- PUBLIC UTILITY COMMISSION. It shall be unlawful for any air carrier, as the term is defined in this act, to operate any aircraft in transportation without having first obtained from the commission a certificate of public convenience and necessity covering such operation.

A certificate may be issued to a qualified applicant authorizing the whole or any part of his operations covered by the application made to the commission in accordance with the provisions of this act, if it is found that the applicant is fit, willing and able properly to perform the service proposed and to conform to the provisions of this act and the requirements, rules and regulations of the commission thereunder, and that the proposed service, to the extent authorized by the certificate is, or will be, required by the present or future public convenience and necessity.

In considering the public convenience and necessity, the commission shall in consultation with the director of the Idaho transportation department, prior to the issuance of a certificate, consider the effect of such proposed air carrier operation upon the operations of any authorized air carrier then operating over the routes or in the territory sought. The mere existence of an air carrier in the territory sought who possesses authority similar to that sought by the applicant shall not be sufficient cause to deny the issuance of the certificate.

In awarding certificates of public convenience and necessity, the commission shall take into consideration the business experience of the particular air carrier in the field of air operations, the financial stability of the carrier, the insurance coverage of the carrier, type of aircraft which the carrier would employ, proposed routes and minimum schedules to be established, whether the carrier could economically give adequate service to the communities involved, the necessity for the service, and any other factors which may affect the public interest.

[61-1104, added 1969, ch. 197, sec. 4, p. 574; am. 1974, ch. 12, sec. 116, p. 61; am. 1974, ch. 236, sec. 1, p. 1599.]

61-1105. APPLICATION -- FORM AND PROOF. An applicant shall submit his written verified application to the commission, and a duplicate application to the director. The application shall be in such form and contain such information and be accompanied by proof of service upon all air carriers with which the proposed service is likely to compete and such other interested parties as the commission requires.

[61-1105, added 1969, ch. 197, sec. 5, p. 574; am. 1974, ch. 12, sec. 117, p. 61.]

61-1106. FEE. Each application for a certificate of public convenience and necessity made under the provisions of this act shall be accompanied by a fee of one hundred fifty dollars (\$150).

[61-1106, added 1969, ch. 197, sec. 6, p. 574.]

61-1107. GRANTING AND DENYING CERTIFICATES -- HEARING. The commission may, after consultation with the director, and with or without hearing, issue a temporary or permanent certificate, except that a certificate may not

be issued without a hearing over the formal objection of a person or party in possession with standing to object. The commission, after consultation with the director, may deny the application for a temporary or permanent certificate in whole or part, with or without hearing, except that such denial may not be ordered without a hearing over the formal objection of the applicant. The commission, after consultation with the director, may attach to the exercise of the rights granted by the certificate such terms and conditions as, in its judgment, the public convenience and necessity requires.

[61-1107, added 1969, ch. 197, sec. 7, p. 574; am. 1974, ch. 12, sec. 118, p. 61.]

61-1108. REVOCATION AND SUSPENSION -- NOTICE AND HEARING. The rights conferred by a certificate issued pursuant to this act may not be revoked or suspended without a finding by the commission after consultation with the director, and through notice and hearing, that the holder has abandoned such rights, or is no longer fit, willing or able to perform all or part of the certificated services, or to conform to the law and to the rules and regulations of the commission.

[61-1108, added 1969, ch. 197, sec. 8, p. 574; am. 1974, ch. 12, sec. 119, p. 61.]

61-1109. UNLAWFUL PRACTICE -- CONSOLIDATION AND MERGER. It shall be unlawful, unless authorized by order of the commission as provided in this act:

a. For two (2) or more air carriers, or for any air carrier and any other common carrier, to consolidate or merge their properties, or any part thereof, into one (1) person for the ownership, management or operation of the properties theretofore in separate ownerships.

b. For any air carrier, or any person controlling an air carrier or any other common carrier, to purchase, lease or contract to operate the properties, or any substantial part thereof, of any air carrier.

c. For any air carrier, or any person controlling an air carrier or any other common carrier, to acquire control of any air carrier in any manner whatsoever.

[61-1109, added 1969, ch. 197, sec. 9, p. 574.]

61-1110. CONSOLIDATION, MERGER, PURCHASE, LEASE, OPERATING CONTRACT, ACQUISITION -- REQUIREMENTS. Any person seeking authorization for a consolidation, merger, purchase, lease, operating contract or acquisition of control shall file an application with the commission and a duplicate with the director, and thereupon the commission shall notify all persons known to have a substantial interest in the proceedings of the time and place of the public hearing. The commission, after consultation with the director, shall by order authorize such consolidation, merger, purchase, lease, operating contract or acquisition of control upon such terms and conditions as it shall find to be just and reasonable, after hearing, if the consolidation, merger, purchase, lease, operating contract or acquisition of control is in the public interest. The commission shall not authorize, however, any consolidation, merger, purchase, lease, operating contract or acquisition of control which would result in creating a monopoly or monopolies and thereby restrain competition, or jeopardize another air carrier not a party to the consolidation, merger, purchase, lease, operating contract, or acquisition of control. In any case in which the commission, after consultation with the director, determines that the transaction which

is the subject of the application does not affect the control of an air carrier, does not result in creating a monopoly or monopolies, and does not tend to restrain competition, and determines that no person disclosing a substantial interest is currently requesting a hearing, the commission, after notice of its intention to dispose of such application without a hearing, may determine that the public interest does not require a hearing and may by order authorize or not authorize such transaction.

[61-1110, added 1969, ch. 197, sec. 10, p. 574; am. 1974, ch. 12, sec. 120, p. 61.]

61-1111. UNAUTHORIZED CONTROLLING INTEREST. It is unlawful, unless such relationship has been authorized by order of the commission:

a. For any air carrier to have and retain an officer or director who is an officer, director, or member, or who as a stockholder holds a controlling interest, in any other common carrier.

b. For any air carrier, knowingly and willingly, to have and retain an officer or director who has a representative or nominee who represents such officer, director or member as an officer, director, or member as a stockholder holding a controlling interest, in any other common carrier.

c. For any person who is an officer or director of an air carrier to hold the position of officer, director or member, or to have a stockholder holding a controlling interest, or to have a representative or nominee who represents such a person as an officer, director, or member, or as a stockholder holding a controlling interest in any common carrier.

[61-1111, added 1969, ch. 197, sec. 11, p. 574.]

61-1112. COMBINING CERTIFICATES. Without the express authorization of the commission after consultation with the director, and after a hearing, no certificate of public convenience or necessity issued to one (1) air carrier under the provisions of this act shall be combined, united, or consolidated with another such certificate issued to or possessed by another such carrier, so as to permit through service between any point or points served by the one (1) carrier on the one hand, and the point or points served by another such carrier, on the other hand.

[61-1112, added 1969, ch. 197, sec. 12, p. 574; am. 1974, ch. 12, sec. 121, p. 61.]

61-1113. OPERATING RIGHTS. Unless prohibited by the terms and conditions of any certificate that may be involved, any one (1) air carrier may establish through routes and joint rates, charges, and classifications between any and all points served by it under any and all certificates or operating rights issued to or possessed by it.

[61-1113, added 1969, ch. 197, sec. 13, p. 574.]

61-1114. CEASE AND DESIST -- ENFORCEMENT. When the commission, upon complaint or its own motion, has reason to believe that any aircraft is being operated without a certificate of public convenience and necessity as required by this act, or that this act is being violated, or that an air carrier is engaged in any other illegal activity, the commission shall investigate such activity and may, after consultation with the director, and after a hearing, make its order requiring the owner or operator of the aircraft to cease and desist from any such unlawful activity. The commission shall enforce compliance with such order under the powers vested in the

commission by law, including, but not limited to, the provisions of chapter 7, title 61, Idaho Code.

[61-1114, added 1969, ch. 197, sec. 14, p. 574; am. 1970, ch. 6, sec. 1, p. 10; am. 1974, ch. 12, sec. 122, p. 61.]

61-1115. INSURANCE REQUIREMENT. The commission shall require all air carriers to procure and maintain a minimum amount of insurance in such amounts as the commission may determine. The commission may, upon its own motion or upon application of any interested party, and after a hearing, require any air carrier to procure and maintain additional insurance in such amounts and upon such terms as the commission may determine; provided, however, that such additional insurance required by the commission is available.

[61-1115, added 1969, ch. 197, sec. 15, p. 574.]

61-1116. COMMISSION'S POWER TO FIX RATES AND PRESCRIBE RULES. The commission is hereby vested with the power and authority, and it is hereby made its duty, after consultation with the director, to fix just, fair, reasonable and sufficient rates, fares and charges and classifications, and to alter and amend the same, and to prescribe such rules and regulations for air carriers as may be necessary to provide for adequate service and safety of operations, and to require the filing of such reports and other data with the commission as may be necessary, and to adopt such other rules and regulations as may be necessary to govern the relationship between such air carriers and the traveling and shipping public. Such rules and regulations shall be adopted and promulgated by general order of the commission.

[61-1116, added 1969, ch. 197, sec. 16, p. 574; am. 1974, ch. 12, sec. 123, p. 61.]

61-1117. FEDERAL REGULATION AND CONTROL. This act recognizes the authority of the federal government to regulate and control safety factors in the operation of aircraft and the use of air space.

[61-1117, added 1969, ch. 197, sec. 17, p. 574.]

61-1118. ADMINISTRATIVE FEES. The commission shall charge and collect the following fees and none other, in the administration of this act:

Applications for a certificate shall be accompanied by an application fee of REPLACE DOL TAG HERE \$150.00

Application for transfer of a certificate REPLACE DOL TAG HERE 150.00

Application for the assignment of a certificate REPLACE DOL TAG HERE 150.00

Application for the issuance of a duplicate certificate REPLACE DOL TAG HERE 25.00

Application for certificate reinstatement REPLACE DOL TAG HERE 150.00

Application for certificate suspension REPLACE DOL TAG HERE 50.00

Annual registration of certificate authority REPLACE DOL TAG HERE 100.00

Application for a temporary certificate REPLACE DOL TAG HERE 150.00

The fees as provided above shall be paid to the state treasurer and shall be credited to the public utilities commission fund.

[61-1118, added 1969, ch. 197, sec. 18, p. 574; am. 1999, ch. 383, sec. 18, p. 1069.]

61-1119. ISSUANCE OF SECURITIES. The provisions of chapter 9, title 61, Idaho Code, shall be applicable to regulation under this act.

[61-1119, added 1969, ch. 197, sec. 19, p. 574.]