
A BILL FOR AN ACT

RELATING TO AIRCRAFT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that decisive action is
2 needed to avoid the worst impacts that climate change will have
3 on Hawaii's environment, economy, and quality of life. The
4 legislature has passed ambitious carbon reduction goals,
5 including the goals of reaching net carbon neutrality by 2045,
6 pursuant to Act 15, Session Laws of Hawaii 2018, and achieving
7 the climate change objectives of the Paris Agreement, pursuant
8 to Act 32, Session Laws of Hawaii 2017. Setting these bold
9 targets is important, but bold targets alone are insufficient.

10 The legislature further finds that commercial aviation
11 contributes a significant amount of carbon dioxide emissions to
12 the environment. The United States Environmental Protection
13 Agency reports that aircraft contribute twelve per cent of the
14 total transportation emissions in the United States and account
15 for three per cent of the nation's total greenhouse gas
16 production. Particularly alarming is the impact of private
17 aircraft on the environment, which emit significantly greater



1 amounts of carbon per passenger when compared to commercial
2 aircraft. Therefore, establishing additional fees for non-
3 commercial aircraft may help to reduce the demand for private
4 flight and its impact on carbon dioxide emissions.

5 The purpose of this Act is to establish a non-commercial
6 aircraft landing fee and non-commercial aircraft storage fee and
7 use those moneys to help off-set the current budget deficit.

8 SECTION 2. Chapter 261, Hawaii Revised Statutes, is
9 amended by adding two new sections to be appropriately
10 designated and to read as follows:

11 "§261- Non-commercial aircraft landing fee. (a) There
12 is established a non-commercial aircraft landing fee that shall
13 be imposed on all non-commercial aircraft that engage in the
14 carriage of persons between a point outside the State to a point
15 within the State.

16 (b) The non-commercial aircraft landing fee shall be set
17 at a rate of \$ _____ per passenger on the aircraft at the
18 time of landing.

19 (c) The following aircraft shall be exempt from this
20 section:



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- 1 (1) Aircraft operating primarily in interstate or foreign
- 2 commerce;
- 3 (2) Aircraft owned or operated by the United States;
- 4 (3) Aircraft in transit through the State; and
- 5 (4) Aircraft operated by any scheduled airline carrier
- 6 that is a lessee of the State under an airport-airline
- 7 lease at the Daniel K. Inouye International Airport
- 8 and that is commonly referred to as signatory airline.
- 9 (d) All proceeds from non-commercial aircraft landing fees
- 10 shall be deposited into the general fund.

11 **\$261- Non-commercial aircraft storage fee.** (a) There

12 is established an annual non-commercial aircraft storage fee

13 that shall be imposed on an operator or owner of a non-

14 commercial aircraft who stores the aircraft at an airport owned

15 or controlled by the department.

16 (b) The non-commercial aircraft storage fee shall be

17 \$ _____ per aircraft.

18 (c) The following aircraft shall be exempt from this

19 section:

- 20 (1) Aircraft operating primarily in interstate or foreign
- 21 commerce;



- 1 (2) Aircraft owned or operated by the United States;
- 2 (3) Aircraft in transit through the State; and
- 3 (4) Aircraft operated by any scheduled airline carrier
- 4 that is a lessee of the State under an airport-airline
- 5 lease at the Daniel K. Inouye International Airport
- 6 and that is commonly referred to as signatory airline.
- 7 (d) All proceeds from non-commercial aircraft landing fees
- 8 shall be deposited into the general fund."

9 SECTION 3. Section 261-1, Hawaii Revised Statutes, is

10 amended by adding a new definition to be appropriately inserted

11 and to read as follows:

12 ""Non-commercial aircraft" means an aircraft engaged in a

13 personal or business flight to or from the State that is not:

- 14 (1) Carrying passengers or cargo for commercial purposes;
- 15 (2) Leaving the State carrying neither passengers nor
- 16 cargo in order to lade passengers or cargo in a
- 17 domestic or foreign area for commercial purposes; or
- 18 (3) Returning to the State carrying neither passengers nor
- 19 cargo in ballast after leaving with passengers or
- 20 cargo for commercial purposes.

1 "Non-commercial aircraft" includes an aircraft that is leased or
2 rented for the purposes of a charter flight."

3 SECTION 4. Section 261-5, Hawaii Revised Statutes, is
4 amended by amending subsection (a) to read as follows:

5 "(a) Except for:

6 (1) All proceeds from the passenger facility charge and
7 deposited in the passenger facility charge special
8 fund; [~~and~~]

9 (2) All proceeds from the rental motor vehicle customer
10 facility charge and deposited in the rental motor
11 vehicle customer facility charge special fund[~~;~~]

12 (3) All proceeds from the non-commercial aircraft landing
13 fee; and

14 (4) All proceeds from the non-commercial aircraft storage
15 fee,

16 all moneys received by the department from rents, fees, and
17 other charges collected pursuant to this chapter, as well as all
18 aviation fuel taxes paid pursuant to section 243-4(a)(2), shall
19 be paid into the airport revenue fund created by section 248-8.

20 All moneys paid into the airport revenue fund shall be
21 appropriated, applied, or expended by the department for any



1 purpose within the jurisdiction, powers, duties, and functions
2 of the department related to the statewide system of airports,
3 including, without limitation, the costs of operation,
4 maintenance, and repair of the statewide system of airports and
5 reserves therefor, and acquisitions (including real property and
6 interests therein), constructions, additions, expansions,
7 improvements, renewals, replacements, reconstruction,
8 engineering, investigation, and planning for the statewide
9 system of airports, all or any of which in the judgment of the
10 department are necessary to the performance of its duties or
11 functions. The department shall generate sufficient revenues
12 from its airport properties to meet all of the expenditures of
13 the statewide system of airports and to comply with section 39-
14 61; provided that as long as sufficient revenues are generated
15 to meet such expenditures, the director of transportation may,
16 in the director's discretion, grant a rebate of the aviation
17 fuel taxes paid into the airport revenue fund during a fiscal
18 year pursuant to sections 243-4(a)(2) and 248-8 to any person
19 who has paid airport use charges or landing fees during such
20 fiscal year. Such rebate may be granted during the next
21 succeeding fiscal year but shall not exceed one-half cent per



1 gallon per person, and shall be computed on the total number of
2 gallons for which the tax was paid by such person, for such
3 fiscal year."

4 SECTION 5. Section 261-7, Hawaii Revised Statutes, is
5 amended by amending subsection (e) to read as follows:

6 "(e) The department may fix and regulate, from time to
7 time, reasonable landing fees for aircraft, including the
8 imposition of landing surcharges or differential landing fees,
9 and other reasonable charges for the use and enjoyment of the
10 airports and the services and facilities furnished by the
11 department in connection therewith, including the establishment
12 of a statewide system of airports landing fees, a statewide
13 system of airports support charges, [~~and~~] joint use charges for
14 the use of space shared by users, non-commercial aircraft
15 landing fees, and non-commercial aircraft storage fees, which
16 fees and charges may vary among different classes of users such
17 as foreign carriers, domestic carriers, inter-island carriers,
18 air taxi operators, helicopters, and such other classes as may
19 be determined by the director, for the purpose of meeting the
20 expenditures of the statewide system of airports set forth in



1 section 261-5(a), which includes expenditures for capital
2 improvement projects approved by the legislature.

3 In setting airports rates and charges, including landing
4 fees, the director may enter into contracts, leases, licenses,
5 and other agreements with aeronautical users of the statewide
6 system of airports containing such terms, conditions, and
7 provisions as the director deems advisable.

8 If the director has not entered into contracts, leases,
9 licenses, and other agreements with any or fewer than all of the
10 aeronautical users of the statewide system of airports prior to
11 the expiration of an existing contract, lease, license, or
12 agreement, the director shall set and impose rates, rentals,
13 fees, and charges pursuant to this subsection without regard to
14 the requirements of chapter 91; provided that a public
15 informational hearing shall be held on the rates, rentals, fees,
16 and charges.

17 The director shall develop rates, rentals, fees, and
18 charges in accordance with a residual methodology so that the
19 statewide system of airports shall be, and always remain, self-
20 sustaining. The rates, rentals, fees, and charges shall be set
21 at such levels as to produce revenues which, together with



1 aviation fuel taxes, shall be at least sufficient to meet the
2 expenditures of the statewide system of airports set forth in
3 section 261-5(a), including expenditures for capital improvement
4 projects approved by the legislature, and to comply with
5 covenants and agreements with holders of airport revenue bonds.

6 The director may develop and formulate methodology in
7 setting the various rates, rentals, fees, and charges imposed
8 and may determine usage of space, estimate landed weights, and
9 apply such portion of nonaeronautical revenue deemed appropriate
10 in determining the rates, rentals, fees, and charges applicable
11 to aeronautical users of the statewide system of airports.

12 The rates, rentals, fees, and charges determined by the
13 director in the manner set forth in this subsection shall be
14 those charges payable by the aeronautical users for the periods
15 immediately following the date of expiration of the existing
16 contract, lease, license, or agreement. If fees are established
17 pursuant to this section, the department shall prepare a
18 detailed report on the circumstances and rates and charges that
19 have been established, and shall submit the report to the
20 legislature no later than twenty days prior to the convening of
21 the next regular session.



1 If a schedule of rates, rentals, fees, and charges
2 developed by the director in accordance with this section is
3 projected by the department to produce revenues which, together
4 with aviation fuel taxes, will be in excess of the amount
5 required to meet the expenditures of the statewide system of
6 airports set forth in section 261-5(a), including expenditures
7 for capital improvement projects approved by the legislature,
8 and to comply with covenants and agreements with holders of
9 airport revenue bonds, the department shall submit the schedule
10 of rates, rentals, fees, and charges to the legislature prior to
11 the convening of the next regular session of the legislature.
12 Within forty-five days after the convening of the regular
13 session, the legislature may disapprove any schedule of rates,
14 rentals, fees, and charges required to be submitted to it by
15 this section by concurrent resolution. If no action is taken by
16 the legislature within the forty-five-day period the schedule of
17 rates, rentals, fees, and charges shall be deemed approved. If
18 the legislature disapproves the schedule within the forty-five-
19 day period, the director shall develop a new schedule of rates,
20 rentals, fees, and charges in accordance with this section
21 within seventy-five days of the disapproval. Pending the



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1 development of a new schedule of rates, rentals, fees, and
2 charges, the schedule submitted to the legislature shall remain
3 in force and effect.

4 Notwithstanding any other provision of law to the contrary,
5 the department may waive landing fees and other aircraft charges
6 established under this section at any airport owned or
7 controlled by the State whenever:

- 8 (1) The governor declares a state of emergency; and
9 (2) The department determines that the waiver of landing
10 fees and other charges for the aircraft is consistent
11 with assisting in the delivery of humanitarian relief
12 to disaster-stricken areas of the State."

13 SECTION 6. Statutory material to be repealed is bracketed
14 and stricken. New statutory material is underscored.

15 SECTION 7. This Act shall take effect upon its approval.

16

INTRODUCED BY:



JAN 22 2021



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Report Title:

Non-commercial Aircraft; Landing Fee; Storage Fee

Description:

Establishes a non-commercial aircraft landing fee and non-commercial aircraft storage fee. Directs proceeds from these fees into the general fund. Defines "non-commercial aircraft".

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

