

ACT 397

S.B. NO. 2681

A Bill for an Act Relating to Aeronautics.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 261, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§261- Helicopter master plan; advisory committee. (a) The legislature recognizes that air traffic congestion on the ground constitutes a serious safety problem and reduces the efficient and effective use of the limited space in airport facilities. The legislature also recognizes the increased use of airport facilities by helicopters for commercial purposes.

The legislature is determined to ensure that all possible actions are taken to promote safety, alleviate safety hazards, and reduce congestion at airports under

the State's control. The department of transportation shall do everything within its authority to enhance the safe use of the State's airports and shall cooperate with appropriate federal agencies and other affected parties to assist the agencies in meeting their responsibilities to alleviate safety hazards. In carrying out this responsibility, the department shall develop and implement a master plan, hereinafter referred to as the "helicopter master plan", for helicopter operations for each airport under the State's control.

(b) The director shall adopt a helicopter master plan for each state airport that shall include but not be limited to:

- (1) The extent, type, nature, location, and timing of helicopter operations and helicopter facilities development at each state airport;
- (2) The layout plans of existing and proposed helicopter facilities at each state airport;
- (3) The determination of the maximum number of helicopters that can be accommodated at each state airport;
- (4) The determination of the extent of emergency services, maintenance, and operations at each state airport; and
- (5) An assessment of impact on surrounding areas.

(c) The director shall not make or permit any addition or alteration to any helicopter facilities at any state airport other than those additions or alterations in conformity with the helicopter master plan for that state airport.

(d) The helicopter master plan shall be submitted to the legislature no later than twenty days prior to the convening of the regular session of 1989, and thereafter shall be formally reviewed every five years.

(e) There is established an advisory committee within each county which shall sit in an advisory capacity to the director on matters relating to the helicopter master plan for each state airport. Each advisory committee shall consist of not more than thirteen members to be appointed by the director and whose membership shall include representatives from the helicopter industry and the communities adjacent to the airport. Each advisory committee shall be placed for administrative purposes only, within the department of transportation. Each member of an advisory committee shall serve without compensation.

(f) For the purposes of this section, "helicopter operation" means the operation of a helicopter company from an airport under the State's control."

SECTION 2. Section 261-12, Hawaii Revised Statutes, is amended to read as follows:

"§261-12 Rules, standards. (a) Powers to adopt. The director of transportation may perform such acts, issue and amend such orders, adopt such reasonable general or special rules and procedures, and establish such minimum standards, consistent with this chapter, as the director deems necessary to carry out this chapter and to perform the duties assigned thereunder, 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, and the safety of persons and property on land or water, and developing and promoting aeronautics in the State. No rule of the director shall apply to airports or air navigation facilities owned or operated by the United States.

In furtherance of the duties assigned under this chapter, the director may adopt rules relating to:

- (1) Safety measures, requirements and practices in or about the airport premises;

- (2) The licensing and regulation of persons engaged in commercial activities in or about the airport premises;
- (3) The regulation of equipment and motor vehicles operated in or about the airport operational area;
- (4) Airport security measures or requirements, and designation of sterile passenger holding areas and operational areas;
- (5) The regulation of motor vehicles and traffic;
- (6) Any other matter relating to the health, safety and welfare of the general public and persons operating, using, or traveling in aircraft.

(b) Any other law to the contrary notwithstanding, no tour aircraft operation shall be permitted in any airport under the State's control without first obtaining a permit. The director shall adopt rules to regulate tour aircraft operations by permit which shall include but not be limited to:

- (1) Identification of the types of aircraft to be utilized;
- (2) The number of operations daily for each type of aircraft used and the days and hours of operation;
- (3) Verification that the applicant is in compliance with all state statutes, including but not limited to section 261-12;
- (4) A written assessment by the department of the impact to the surrounding area and to the subject state airport;
- (5) Revocation of a permit based on the failure to comply with the information provided by the applicant and the terms and conditions set forth by the department in the permit; and any false statement or misrepresentation made by the applicant;
- (6) Establishment of penalties for revocation and suspension of a permit for failure to comply with permit conditions;
- (7) Annual renewal of permits; and
- (8) Any change of operations under the existing permit to be approved by the director.

No permit shall be authorized unless accompanied by:

- (1) A Hawaii sectional aeronautical chart marked to indicate routes and altitudes to be used in conducting aerial tours; and
- (2) Noise abatement procedures to be employed in the vicinity of identified noise sensitive areas.

For the purposes of this subsection, "tour aircraft operations" means any business operation which offers aircraft for hire by passengers for the purpose of aerial observation of landmarks and other manmade or natural sites within an island of the State, and for the purpose of transporting passengers for tourist-related activities.

[(b)] (c) Definitions. For the purpose of this section, if not inconsistent with the context:

"Sterile passenger holding area" means any portion of a public airport designated by the director and identified by appropriate signs as an area into which access is conditioned upon the prior inspection of persons and property in accordance with the approved Federal Aviation Administration air carrier screening program.

"Operational area" means any portion of a public airport, from which access by the public is prohibited by fences or appropriate signs, and which is not leased or demised to anyone for exclusive use and includes runways, taxiways, all ramps, cargo ramps and apron areas, aircraft parking and storage areas, fuel storage areas, maintenance areas, and any other area of a public airport used or intended to be used for landing, takeoff or surface maneuvering of aircraft or used for embarkation or debarkation of passengers.

Notwithstanding the restriction on access by the public into operational areas, entry may be authorized for airport operational area related purposes with the prior permission of the director or the director's duly authorized representative.

[(c)] (d) Conformity to federal legislation and rules. No rules, orders, or standards prescribed by the director shall be inconsistent with, or contrary to, any act of the Congress of the United States or any regulation promulgated or standard established pursuant thereto.

[(d)] (e) How made. All rules having the force and effect of law, shall be adopted by the director pursuant to chapter 91.

[(e)] (f) Distribution. The director shall provide for the publication and general distribution of all of its rules and procedures having general effect."

SECTION 3. If any provision of this Act, or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Act which can be given effect without the invalid provisions or application, and to this end the provisions of this Act are severable.

SECTION 4. Statutory material to be repealed is bracketed. New statutory material is underscored.¹

SECTION 5. This Act shall take effect upon its approval; provided that Section 2 of this Act shall take effect January 1, 1989.

(Approved June 17, 1988.)

Note

1. Edited pursuant to HRS §23G-16.5.