

HOUSE BILL No. 6161

November 8, 1990, Introduced by Reps. Kulchitsky, Bryant, Stopczynski, Johnson and Jaye and referred to the Committee on Transportation.

A bill to amend sections 51, 54, and 135 of Act No. 327 of the Public Acts of 1945, entitled as amended "Aeronautics code of the state of Michigan," section 51 as amended by Act No. 385 of the Public Acts of 1982 and sections 54 and 135 as amended by Act No. 466 of the Public Acts of 1982, being sections 259.51, 259.54, and 259.135 of the Michigan Compiled Laws; and to add section 156a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 51, 54, and 135 of Act No. 327 of the
2 Public Acts of 1945, section 51 as amended by Act No. 385 of the
3 Public Acts of 1982 and sections 54 and 135 as amended by Act
4 No. 466 of the Public Acts of 1982, being sections 259.51,
5 259.54, and 259.135 of the Michigan Compiled Laws, are amended
6 and section 156a is added to read as follows:

1 Sec. 51. (1) The commission has general supervision over
2 aeronautics within this state ~~. It shall encourage~~ AND SHALL
3 DO EACH OF THE FOLLOWING:

4 (A) ENCOURAGE, foster, and participate with and grant state
5 money to the political subdivisions of this state in the develop-
6 ment of aeronautics within this state. ~~It shall establish~~

7 (B) ESTABLISH and encourage the establishment of airports,
8 landing fields, and other aeronautical facilities. ~~It shall~~
9 ~~promulgate~~

10 (C) PROMULGATE rules pursuant to THE ADMINISTRATIVE PROCE-
11 DURES ACT OF 1969, Act No. 306 of the Public Acts of 1969, as
12 amended, being sections 24.201 to ~~24.315~~ 24.328 of the Michigan
13 Compiled Laws, ~~it deems~~ THAT THE COMMISSION DETERMINES neces-
14 sary and advisable for the public safety governing the designing,
15 laying out, location, building, equipping, and operation of air-
16 ports and landing fields. ~~The commission is empowered to~~
17 ~~establish~~

18 (D) ESTABLISH programs of grant assistance and participation
19 with political subdivisions and agencies of this state ~~as~~ THAT
20 the commission determines is necessary to carry out this act.
21 ~~It shall not grant~~

22 (E) REFRAIN FROM GRANTING an exclusive right for the use of
23 an aeronautical facility.

24 (2) The commission may ~~by the issuance of appropriate and~~
25 ~~effective rules thereon register~~ DO EACH OF THE FOLLOWING:

26 (A) ESTABLISH RULES AND CHARGE A FEE OF NOT MORE THAN \$5.00
27 FOR THE REGISTRATION OF EACH pilot's ~~certificates~~ CERTIFICATE

1 issued by the civil aeronautics authority or other similar
2 federal authority to A resident ~~pilots~~ PILOT of the state.
3 ~~for which it may charge a fee not to exceed \$5.00; govern~~

4 (B) GOVERN and regulate commercial operations in intrastate
5 commerce ~~for which it may charge~~ AND IMPOSE a fee of not more
6 than \$25.00 ~~, and provide~~ FOR THESE SERVICES.

7 (C) PROVIDE for the licensing of aircraft manufacturers and
8 dealers ~~for which it may charge a fee of not more than \$25.00~~
9 AND IMPOSE A FEE OF NOT MORE THAN \$25.00 FOR THESE SERVICES.

10 (3) ~~(2)~~ The commission shall cooperate with, ~~and~~ assist,
11 AND SEEK TO COORDINATE THE AERONAUTICAL ACTIVITIES OF the federal
12 government, state governments, authorities of political subdivi-
13 sions, and individuals engaged in aeronautics or the development
14 of aeronautics. ~~, and shall seek to coordinate the aeronautical~~
15 ~~activities of these bodies.~~ The commission may confer with or
16 hold joint hearings with ~~any~~ THE federal or A state
17 ~~governments, their agencies~~ GOVERNMENT, A GOVERNMENT AGENCY,
18 the authorities of A political ~~subdivisions, and~~ SUBDIVISION,
19 OR individuals, in connection with any matter arising under this
20 act, and avail itself of the cooperation, services, records, and
21 facilities of those ~~agencies~~ ENTITIES AND INDIVIDUALS in the
22 administration and enforcement of this act. ~~It~~ TO THE EXTENT
23 THE COMMISSION DETERMINES PRACTICABLE, THE COMMISSION shall
24 ~~reciprocate by furnishing~~ FURNISH governments and their agen-
25 cies its cooperation, services, records, and facilities. ~~7~~
26 ~~insofar as may be practicable.~~

1 (4) ~~(3)~~ The commission may perform acts, issue and amend
2 orders, ~~and~~ make, promulgate, and amend reasonable general or
3 special rules and procedures, and establish minimum standards,
4 consistent with this act, ~~which it deems~~ THAT IT DETERMINES
5 necessary to carry out this act and to perform its duties under
6 this act, ~~all commensurate with and~~ for the purpose of protect-
7 ing and insuring the general public interest, health, welfare,
8 and safety. The commission may adopt and enforce the provisions
9 of the currently effective federal legislation governing
10 aeronautics. ~~The commission shall promulgate rules pursuant to~~
11 ~~Act No. 306 of the Public Acts of 1969, as amended, being sec-~~
12 ~~tions 24.201 to 24.315 of the Michigan Compiled Laws.~~ The com-
13 mission may deviate from or add to rules when necessary for the
14 public safety and for the safety of aircraft and airmen within
15 the state. A rule of the commission shall not apply to aeronau-
16 tical facilities owned by the federal government.

17 (5) ~~(4)~~ ~~For the safety of aircraft and airmen within this~~
18 ~~state the~~ THE commission may designate, establish, or modify a
19 state airways system, ~~It~~ AND may publish and distribute
20 maps, charts, and information relating to that system, FOR THE
21 SAFETY OF AIRCRAFT AND AIRMEN WITHIN THIS STATE.

22 (6) ~~(5)~~ The commission, a commission member or employee,
23 the director, and every state, county, and municipal officer
24 charged with the enforcement of state and municipal laws shall
25 enforce and assist in the enforcement of this act, ~~and of~~ rules
26 issued pursuant to this act, and ~~of~~ all other laws of this
27 state relating to aeronautics. In the aid of enforcement,

1 general police powers are conferred upon the commission, each of
2 its members, the director, and the officers and employees of the
3 commission designated by the commission to exercise those
4 powers. The commission is further authorized to enforce this act
5 and rules promulgated pursuant to this act by injunction in the
6 circuit court. The prosecuting attorney of the county in which
7 an offense is committed shall prosecute offenders against this
8 act and other aeronautical laws of this state, or any rule
9 promulgated or order issued by the commission. When a complaint
10 is made before the recorder's court in the city of Detroit, a
11 municipal court in a city having such a court, or the district
12 court in the county, district, or political subdivision in which
13 venue is proper, that court may take cognizance, hear, try, and
14 determine such matters and pass sentence upon offenders in
15 accordance with law.

16 (7) ~~(6)~~ The commission, a commission member, the director,
17 or an employee designated by the commission may hold investiga-
18 tions, inquiries, and hearings concerning matters covered by this
19 act, aircraft accidents, or orders and rules of the commission.
20 Each person designated may administer oaths and affirmations,
21 certify to official acts, issue subpoenas, and compel the
22 attendance and testimony of witnesses, and the production of
23 papers, books, and documents. In case of failure to comply with
24 a subpoena or order issued under authority of this act, the com-
25 mission, or its authorized representative, may invoke the aid of
26 a court of general jurisdiction. The court may order the witness
27 to comply with the requirements of the subpoena or order, or to

1 give evidence touching the matter in question. Failure to obey
2 the order of the court may be punished by the court as contempt.

3 (8) ~~-(7)-~~ In order to facilitate investigations by the com-
4 mission in the interest of public safety and development of aero-
5 nautics, the reports of investigations or hearings, or any part
6 of them, shall not be admitted in evidence or used for any pur-
7 pose in an action or proceeding growing out of a matter referred
8 to in the investigation, hearing, or report, except in case of
9 criminal or other proceedings instituted in behalf of the state
10 under the provisions of this act or any other law of this state
11 relating to aeronautics. A commissioner, director, or an officer
12 or employee of the commission shall not be required to testify to
13 facts ascertained in, or information gained by reason of, his or
14 her official capacity, or be required to testify as an expert
15 witness in an action or proceeding involving an aircraft.
16 Subject to the foregoing provisions, the commission may make
17 available to appropriate federal and state agencies information
18 and material developed in the course of its hearings and
19 investigations.

20 (9) ~~-(8)-~~ For the purposes of executing its powers and
21 duties under this act, the commission, upon recommendations to
22 the state administrative board, may enter into necessary
23 contracts.

24 (10) THE COMMISSION SHALL PREPARE A NOISE PREDICTION MODEL
25 USING METHODS CONSISTENT WITH THE METHODOLOGIES SET FORTH IN
26 APPENDIX A TO PART 150 OF TITLE 14 OF THE CODE OF FEDERAL

1 REGULATIONS FOR SINGLE INCIDENT NOISE AT 1 OR MORE SITES THAT ARE
2 EACH OF THE FOLLOWING:

3 (A) ZONED RESIDENTIAL.

4 (B) WITHIN 1 MILE OF THE PROPOSED OUTER BOUNDARIES OF AN
5 ESTABLISHED OR EXPANDED AIRPORT FACILITY.

6 (11) THE COMMISSION SHALL NOT APPROVE THE ESTABLISHMENT OR
7 EXPANSION OF ANY AIRPORT FACILITY IF THE FOLLOWING CONDITIONS FOR
8 THAT FACILITY EXIST:

9 (A) THE PROPOSED OUTER BOUNDARIES OF THE ESTABLISHED OR
10 EXPANDED AIRPORT FACILITY ARE WITHIN 1 MILE OF A SITE ZONED
11 RESIDENTIAL.

12 (B) THE PREDICTED NOISE MODEL PREPARED PURSUANT TO SUBSEC-
13 TION (10) ESTABLISHES THAT THE LEVEL OF ANY SINGLE INCIDENT NOISE
14 AT A SITE WITHIN 1 MILE OF THE PROPOSED OUTER BOUNDARIES OF THAT
15 AIRPORT FACILITY SHALL NOT EXCEED 72 DECIBELS. FOR PURPOSES OF
16 THIS ACT, "DECIBEL" MEANS A UNIT OF SOUND LEVEL ON A LOGARITHMIC
17 SCALE MEASURED RELATIVE TO THE THRESHOLD OF AUDIBLE SOUND BY THE
18 HUMAN EAR, CONSISTENT WITH AMERICAN NATIONAL STANDARDS INSTITUTE
19 S .1-1960.

20 Sec. 54. (1) ~~The~~ EXCEPT FOR THE LIMITATIONS IMPOSED BY
21 SECTION 51, THE commission may cooperate with the government of
22 the United States and any agency or department thereof, in the
23 acquisition, construction, improvement, maintenance, and opera-
24 tion of airports, landing fields, and other aeronautical facili-
25 ties in this state where federal financial aid is received. The
26 commission shall comply with the laws of the United States and
27 any regulations made under those laws for the expenditure of

1 federal money upon airports, landing fields, and other
2 aeronautical facilities for which federal financial aid is
3 received.

4 (2) The commission may accept, receive, receipt for, and
5 disburse, federal or other money for and in behalf of this state
6 or a political subdivision of this state, for the acquisition,
7 construction, improvement, maintenance, and operation of air-
8 ports, landing fields, and other aeronautical facilities in this
9 state. In each case, the commission shall act as agent of the
10 political subdivision of this state in accepting, receiving,
11 receipting for, and disbursing such money in behalf of the polit-
12 ical subdivision. The governing body of a political subdivision
13 in this state may designate the commission as its agent for these
14 purposes, as provided in section 135.

15 (3) Money accepted for disbursement by the commission pursu-
16 ant to subsection (2) shall be deposited in the state treasury
17 and disbursed in accordance with the provisions of the respective
18 grants and the fiscal procedures of the state treasurer.

19 (4) The commission may assist political subdivisions of this
20 state in the preparation of airport projects under federal stat-
21 utes that provide federal funding of the airport and airway
22 system, by the furnishing of engineering or other technical
23 services. The cost for such assistance shall be chargeable to
24 the airport project and reimbursable to the commission in accord-
25 ance with the federal statute providing federal funding as allow-
26 able project costs, and deposited to the planning and engineering
27 fund for use on future projects.

1 Sec. 135. (1) A political subdivision of this state is
2 empowered to accept federal or other assistance in the acquisi-
3 tion, construction, enlargement, improvement, maintenance, equip-
4 ment, or operation of airports, landing fields, and other aero-
5 nautical facilities.

6 (2) A political subdivision of this state, whether acting
7 alone or jointly with another political subdivision or with the
8 state, shall not submit directly to the administrator of the fed-
9 eral aviation administration or its successor agency any project
10 application under the provisions of an act of Congress for air-
11 port and airway systems, unless the project and the project
12 application have been first approved by the commission.

13 (3) A political subdivision shall not directly accept,
14 receive, receipt for, or disburse any funds granted by the United
15 States for the purpose of acquisition, construction, enlargement,
16 maintenance, equipment, or improvement of airports, landing
17 fields, or other aeronautical facilities, but it shall designate
18 the commission as its agent and in its behalf to accept, receive,
19 receipt for, and disburse such funds. A political subdivision
20 shall enter into an agreement with the commission which shall
21 prescribe the terms and conditions of the agency in accordance
22 with federal laws, rules, and regulations and the applicable laws
23 of this state. Money paid over by the United States government
24 for the acquisition, construction, improvement, enlargement,
25 equipment, or maintenance of airports, landing fields, or other
26 aeronautical facilities shall be channeled through the state
27 treasury and disbursed for and in behalf of the political

1 subdivision under the terms and conditions of the respective
2 grants. The disbursements shall be made in accordance with the
3 accounting laws and procedures of this state.

4 (4) THE COMMISSION SHALL NOT ACCEPT OR ALLOW A POLITICAL
5 SUBDIVISION TO ACCEPT FEDERAL FUNDS, AND THE COMMISSION SHALL NOT
6 APPROVE THE USE OR ADVANCING OF STATE FUNDS FROM ANY SOURCE FOR
7 EXPANSION OF AN EXISTING AIRPORT FACILITY IF THE PREDICTED NOISE
8 MODEL PREPARED PURSUANT TO SECTION 51 ESTABLISHES THAT THE LEVEL
9 OF ANY SINGLE INCIDENT NOISE AT A RESIDENTIAL SITE WITHIN 1 MILE
10 OF THE OUTER BOUNDARIES OF THE PROPOSED EXPANDED AIRPORT FACILITY
11 EXCEEDED 72 DECIBELS.

12 SEC. 156A. A PERSON, INCLUDING A GOVERNMENTAL ENTITY, THAT
13 ALLOWS AIRCRAFT NOISE EMISSIONS TO EXCEED 72 DECIBELS AT A GROUND
14 LEVEL SITE ZONED RESIDENTIAL IS LIABLE FOR AN INTENTIONAL
15 NUISANCE.