

By: Nations of the House
and
Capps of the Senate

An Act relating to aircraft; amending 3 O.S. 1991, Section 254, as amended by Section 10, Chapter 363, O.S.L. 1994 (3 O.S. Supp. 1999, Section 254), which relates to application for registration of aircraft; modifying reference to certain license; prohibiting person from selling aircraft without a license; requiring license for each business location; requiring certain proof and setting forth certain qualifications for obtaining dealer license; requiring applications to be verified by oath; requiring certain information on application; requiring certain fees to accompany application for license; providing for expiration of licenses and providing for renewal; setting forth license fee; authorizing the Oklahoma Tax Commission to deny, suspend, or revoke licenses under certain circumstances; permitting certain fine; authorizing the collection of excise tax under certain circumstances; providing for notice and hearing; permitting existing dealers to retain license until certain date; requiring dealers to obtain new license; amending 68 O.S. 1991, Section 6003, as last amended by Section 1, Chapter 283, O.S.L. 1999 (68 O.S. Supp. 1999, Section 6003), which relates to exemptions from aircraft excise tax; requiring dealer to have certain license; providing for codification; providing an effective date; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 3 O.S. 1991, Section 254, as amended by Section 10, Chapter 363, O.S.L. 1994 (3 O.S. Supp. 1999, Section 254), is amended to read as follows:

Section 254. A. Except as otherwise provided in this act, every owner or person in charge of an aircraft which shall be operated on or from any airport of any type in this state shall for each such aircraft cause to be filed by mail or otherwise with the

Oklahoma Tax Commission a certified application for registration of same, on a form to be furnished for that purpose, containing:

1. A description of each aircraft to be registered including the name of the manufacturer, aircraft registration number, type and gross weight; and

2. The name and address of the owner of such aircraft and the county where aircraft is based. The legal basis for determining the county where ~~said~~ the aircraft is based shall be the location and/or address on the Federal Aviation Administration Certificate of Registration for ~~said~~ the aircraft.

B. Registration requirements shall not apply to aircraft based or operated in the state for less than thirty (30) days.

C. 1. All dealers in the sale of aircraft shall be exempt from registration requirements upon purchase of an ~~"exemption a license"~~ from the Oklahoma Tax Commission, ~~cost of which shall be Two Hundred Fifty Dollars (\$250.00)~~ pursuant to Section 2 of this act. This exemption shall not apply to dealers' personal aircraft. The payment of the license fee ~~prescribed by this subsection~~ as set forth in Section 2 of this act shall be treated as a payment in lieu of any ad valorem tax upon the value of aircraft owned by the dealer.

2. Dealers' "sales aircraft" shall be exempt from payment of ad valorem tax and registration fees and taxes as provided in Section 256 of this title upon certification to the Oklahoma Tax Commission that each particular aircraft is used for delivery and demonstration purposes only.

D. All manufacturers of aircraft shall be exempt from registration requirements upon purchase of an "exemption license" from the Oklahoma Tax Commission, cost of which shall be Two Hundred Fifty Dollars (\$250.00). The payment of the fee prescribed by this subsection shall be treated as a payment in lieu of any ad valorem tax upon the value of aircraft owned by the manufacturer.

E. Registrants not having purchased registration certificates in January will be penalized at the rate of twenty cents (\$0.20) per day in February and doubled on the first day of March.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 254.1 of Title 3, unless there is created a duplication in numbering, reads as follows:

A. It shall be unlawful for any person to engage in the business of selling, or to serve in the capacity of, or act as a dealer of new or used aircraft in this state without first obtaining a license as provided in this section. Any person having more than one location where such business is carried on or conducted shall be required to obtain and hold a current license for each such location.

B. Dealer licenses issued pursuant to this section shall be issued only to persons that prove to the satisfaction of the Oklahoma Tax Commission that they are clearly recognizable as bona fide dealers. Proof of bona fide dealer status shall include, but not be limited to, the following:

1. Sales of three or more aircraft every eighteen (18) months, unless the applicant can show unusual circumstances justifying lesser sales;

2. Consistent identification of the business as a dealer establishment in advertising, signs, telephone book listings, and other similar means. The dealership shall be clearly identifiable as such by any person who visits or deals with the business;

3. Regular hours of operation at least five (5) days per week; and

4. A picture, upon application for a new license, of the business location which includes the office and business sign.

C. Applications for licenses required to be obtained pursuant to this section shall be verified by the oath or affirmation of the applicant and shall be on forms prescribed by the Tax Commission.

The form shall contain such information as the Tax Commission deems necessary to enable it to fully determine the qualifications and eligibility of the applicant to receive the license requested. The Tax Commission shall require in such application information relating to:

1. The financial standing of the applicant;
2. The business integrity of the applicant;
3. Whether the applicant has an established place of business and is primarily engaged in the pursuit or business of selling aircraft;
4. Whether the applicant is able to properly conduct the business for which the license has been requested; and
5. Such other pertinent information consistent with the safeguarding of the public interest and the public welfare.

All applications for licenses shall be accompanied by the appropriate fees in accordance with the provisions of this section. In the event any application is denied and the license requested is not issued, the entire license fee shall be returned to the applicant.

D. All licenses issued pursuant to this section shall expire on December 31 of the second year following the date of issue. All licenses shall be nontransferable. All applications for renewal of a license shall be submitted by November 1 of the year of renewal, and such license shall be issued by January 1. If applications have not been made for renewal of licenses by December 31, it shall be illegal for any person to sell or to serve in the capacity or act as a dealer. If after December 31 the license has not been renewed, then such licensee shall be required to apply for a license as a new applicant.

E. The license fee to be charged and received by the Tax Commission for the license issued pursuant to this section shall be Two Hundred Fifty Dollars (\$250.00). There shall be no fee for

renewal of a license unless the licensee is required pursuant to this section to apply for a license as a new applicant.

F. The Tax Commission may deny an application for a license, or revoke or suspend a license, or impose a fine not to exceed Five Hundred Dollars (\$500.00) against a dealer for each day that any provision of this section is violated, or for any of the following reasons:

1. On satisfactory proof of unfitness of the applicant in any application for a license pursuant to this section;

2. For any material misstatement made by an applicant in any application for a license pursuant to this section;

3. A change of condition after a license is granted resulting in failure to maintain the qualifications for a license;

4. Being a dealer who:

a. uses false or misleading advertising in connection with the business as a dealer,

b. has committed any unlawful act which resulted in the revocation of any similar license in another state,

c. has failed or refused to perform any written agreement with any retail buyer involving the sale of an aircraft,

d. has been convicted of a crime involving moral turpitude,

e. has committed a fraudulent act in selling, purchasing, or otherwise dealing in aircraft, or has misrepresented the terms and conditions of a sale, purchase, or contract for sale or purchase of an aircraft, or

f. has failed to meet or maintain the conditions and requirements necessary to qualify for the issuance of a license; or

5. Being a dealer who does not have an established place of business.

The Tax Commission may also assess any excise tax, including penalty and interest, against any dealer determined by the Tax Commission to be in violation of this section for any aircraft sold or purchased while such dealer was in violation of this section.

G. The Tax Commission may deny any application for a license, or suspend or revoke a license issued or impose a fine, only after appropriate notice and a hearing as set forth by rule of the Tax Commission.

H. Any person holding a dealer license on July 1, 2000, issued pursuant to Section 254 of Title 3 of the Oklahoma Statutes shall be entitled to retain such license until December 31, 2000. At such time, the dealer shall apply for a new license in accordance with the provisions of this section.

SECTION 3. AMENDATORY 68 O.S. 1991, Section 6003, as last amended by Section 1, Chapter 283, O.S.L. 1999 (68 O.S. Supp. 1999, Section 6003), is amended to read as follows:

Section 6003. The following aircraft shall be exempt from provisions of Section 6001 et seq. of this title:

1. Aircraft manufactured under an F.A.A. approved certificate and which are owned and in the physical possession of the manufacturer of ~~said~~ the aircraft. ~~Said~~ The aircraft shall have an aircraft exemption license as provided for in Section 254 of Title 3 of the Oklahoma Statutes;

2. Aircraft owned by dealers and in the dealer's inventory, not including aircraft that are used personally or for business. ~~Said aircraft shall have an aircraft exemption license as provided for in Section 254 of Title 3 of the Oklahoma Statutes~~ In order for this exemption to apply, the dealer shall be licensed in accordance with Section 2 of this act;

3. Aircraft of the federal government, any agency thereof, any territory or possession, any state government, agency, or political subdivision thereof;

4. Aircraft transferred from one corporation or limited liability company to another corporation or limited liability company pursuant to reorganization of the corporation or limited liability company. For the purpose of this section the term reorganization means a statutory merger, consolidation, or acquisition;

5. Aircraft purchased or used by commercial airlines as defined by paragraph 2 of Section 6001 of this title;

6. Aircraft transferred in connection with the dissolution or liquidation of a corporation or limited liability company and only if included in a payment in kind to the shareholders or members;

7. Aircraft transferred to a corporation for the purpose of organizing such corporation. However, the former owners of the aircraft must have control of the corporation in proportion to their interest in the aircraft prior to the transfer;

8. Aircraft transferred to a partnership or limited liability company when the organization of the partnership or limited liability company is by the former owners of the aircraft. However, the former owners of the aircraft must have control of the partnership in proportion to their interest in the aircraft prior to the transfer;

9. Aircraft transferred from a partnership or limited liability company to the members of the partnership or limited liability company and if made in payment in kind in the dissolution of the partnership;

10. Aircraft transferred or conveyed to a partner of a partnership or shareholder or member of a limited liability company or other person who after such sale owns a joint interest in the aircraft and on which the sales or use tax levied pursuant to the

provisions of this title or the excise tax levied pursuant to the provisions of Section 6002 of this title have previously been paid on the aircraft;

11. Aircraft on which a tax levied pursuant to the provisions of the laws of another state, equal to or in excess of the excise tax levied by Section 6002 of this title, has been paid by the person using the aircraft in this state. Aircraft on which a tax levied pursuant to the laws of another state, in an amount less than the excise tax levied by Section 6002 of this title, has been paid by the person using the aircraft in this state shall be subject to the levy of the excise tax at a rate equal to the difference between the rate of tax levied by Section 6002 of this title and the rate of tax levied by the other state;

12. Aircraft when legal ownership of such aircraft is obtained by the applicant for a certificate of title by inheritance;

13. Aircraft when legal ownership of such aircraft is obtained by the lienholder or mortgagee under or by foreclosure of a lien or mortgage in the manner provided for by law;

14. Aircraft which is transferred between husband and wife or parent and child where no valuable consideration is given;

15. Aircraft which is purchased by a resident of this state and used exclusively in this state for agricultural spraying purposes; provided, if such aircraft is sold, leased or used outside this state or for a purpose other than agricultural spraying at any time within three (3) years from the date of purchase, the excise tax levied pursuant to the provisions of Section 6002 of this title shall be due and payable. For purposes of this subsection, "agricultural spraying" means the aerial application of any substance sold and used for soil enrichment or soil corrective purposes or for promoting the growth and productivity of plants and animals;

16. Aircraft which have a selling price in excess of Two Million Five Hundred Thousand Dollars (\$2,500,000.00) and which are transferred to a purchaser who is not a resident of this state for immediate transfer out of state; and

17. Aircraft which is transferred without consideration between an individual and an express trust which that individual or the spouse, child or parent of that individual has a right to revoke.

SECTION 4. This act shall become effective July 1, 2000.

SECTION 5. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the House of Representatives the 1st day of March, 2000.

Speaker of the House of
Representatives

Passed the Senate the ____ day of _____, 2000.

President of the Senate