

STATE OF OKLAHOMA

1st Session of the 50th Legislature (2005)

SENATE BILL 404

By: Capps

AS INTRODUCED

An Act relating to Oklahoma Aeronautics Commission; amending 3 O.S. 2001, Sections 251, 254, 254.1, as amended by Section 1, Chapter 67, O.S.L. 2003, 255, 256 and 256.1 (3 O.S. Supp. 2004, Section 254.1), which relate to aircraft registration; moving authority for aircraft registration from Oklahoma Tax Commission to Oklahoma Aeronautics Commission; requiring filing of certain documents with Oklahoma Aeronautics Commission; authorizing purchase of certain license from, and permitting exemption upon certification to, Oklahoma Aeronautics Commission; updating references; providing for Oklahoma Aeronautics Commission authority over issuance of certain license; authorizing Oklahoma Aeronautics Commission to assign license number and issue certificate; providing for inspection and issuance of a duplicate of certain certificate; distinguishing registration of aircraft from that of automobiles; authorizing the Oklahoma Aeronautics Commission to collect registration fees and taxes and distinguishing such collection from that for automobiles; providing for specified appraisal of aircraft under certain circumstances; redirecting collection and distribution of aircraft registration fees and taxes; authorizing Oklahoma Aeronautics Commission to require payment of certain filing fee; providing for expenditure from certain account by Oklahoma Aeronautics Commission for specified purpose; amending 68 O.S. 2001, Sections 6002, 6004, 6005, 6006 and 6007, which relate to aircraft excise tax; redirecting responsibility for collecting tax from Oklahoma Tax Commission to Oklahoma Aeronautics Commission; making the Oklahoma Aeronautics Commission responsible for procedures relating to specified report; deleting obsolete language; requiring the Oklahoma Aeronautics Commission to transfer certain funds after a specified date; authorizing the Oklahoma Aeronautics Commission to seize specified aircraft under certain circumstances; requiring hearing under certain circumstances; authorizing the Oklahoma Aeronautics Commission to promulgate rules; and providing an effective date.

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

SECTION 1. AMENDATORY 3 O.S. 2001, Section 251, is amended to read as follows:

Section 251. A. It is hereby declared that it is the policy of the Legislature to make registration procedures for aircraft similar to those for automobiles, with the authority to accomplish the same vested fully in the Oklahoma ~~Tax~~ Aeronautics Commission separately from the Oklahoma ~~Aeronautics~~ Tax Commission, the jurisdiction of the two Commissions, their directors and officers being separate.

B. It shall be the duty of the ~~Oklahoma~~ Tax Commission and the Oklahoma Aeronautics Commission, for provisions over which they have statutory jurisdiction, to promulgate any additional rules and regulations and designate forms and procedures for the implementation of ~~this act~~ Sections 3-251 through 3-259 of this title.

SECTION 2. AMENDATORY 3 O.S. 2001, 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~~ Aeronautics 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 the aircraft is based shall be the location and/or address on the Federal Aviation Administration Certificate of Registration for 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 a license from the Oklahoma ~~Tax~~ Aeronautics Commission pursuant to Section ~~2 of this act~~ 254.1 of this title. This exemption shall not apply to dealers' personal aircraft. The payment of the license fee as set forth in Section ~~2 of this act~~ 254.1 of this title 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~~ Aeronautics 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~~ Aeronautics 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 3. AMENDATORY 3 O.S. 2001, Section 254.1, as amended by Section 1, Chapter 67, O.S.L. 2003 (3 O.S. Supp. 2004, Section 254.1), is amended to read as follows:

Section 254.1 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~~ Aeronautics 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. 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; and

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

1. Whether the applicant has an established place of business and is primarily engaged in the pursuit or business of selling aircraft;

2. Whether the applicant is able to properly conduct the business for which the license has been requested; and

3. 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~~ Oklahoma Aeronautics 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~~ Oklahoma Aeronautics 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~~ Oklahoma Aeronautics Commission may also assess any excise tax, including penalty and interest, against any dealer determined by the ~~Tax~~ Oklahoma Aeronautics 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~~ Oklahoma Aeronautics 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~~ Oklahoma Aeronautics 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 4. AMENDATORY 3 O.S. 2001, Section 255, is amended to read as follows:

Section 255. A. Upon receipt of an application for the registration of an aircraft, as herein provided, the Oklahoma ~~Tax~~ Aeronautics Commission shall file such application and register such aircraft with the name and address of the owner, manufacturer or dealer, as the case may be, together with facts stated in such application, in a book or index to be kept for the purpose, under the distinctive number assigned to such aircraft, which book or index shall be open for the inspection of the public during business hours.

B. Upon the filing of such application and the payment of the fee herein provided for, the Oklahoma ~~Tax~~ Aeronautics Commission shall assign to that aircraft the distinctive license number used by the federal government to identify that aircraft, and issue and deliver to the owner certificates of registration number to be posted in a conspicuous place at the discretion of the owner of such aircraft. Such certificates shall display the outline of the State of Oklahoma imprinted thereupon. Such certificates shall be subject to inspection by the Oklahoma ~~Tax~~ Aeronautics Commission.

C. In the event of loss, mutilation or destruction of a certificate of registration, the owner of a registered aircraft may obtain from the Oklahoma ~~Tax~~ Aeronautics Commission a duplicate thereof upon filing with the Oklahoma ~~Tax~~ Aeronautics Commission an affidavit showing the facts and upon the payment of a service charge of One Dollar (\$1.00) for each duplicate.

D. Such registration shall be renewed annually, ~~as in the registration of automobiles, and in the same manner and upon payment of the same fee as provided for the original aircraft registration in this act.~~

E. The sale of registration certificates for aircraft shall be by the Oklahoma ~~Tax~~ Aeronautics Commission and its agents.

Provided, that monies to be paid for processing or services for the sale of registration certificates shall be deducted from the fees provided by the scheduled rates.

F. Registration of aircraft may be transferred upon payment of a fee of Ten Dollars (\$10.00).

SECTION 5. AMENDATORY 3 O.S. 2001, Section 256, is amended to read as follows:

Section 256. A. Registration fees and taxes on aircraft shall be paid to and collected by the Oklahoma ~~Tax~~ Aeronautics Commission and its agents ~~in the same manner as registration fees and taxes are paid and collected on automobiles.~~

The registration and reregistration of aircraft shall be subject to the following schedule and rates:

1. Single-engine piston aircraft shall be taxed according to the following Schedule "A":

SCHEDULE "A"

WEIGHT IN POUNDS	FEE
Less than 1,750	\$20.00
1,751 through 2,500	\$35.00
2,501 through 3,500	\$55.00
3,501 through 4,500	\$75.00
4,501 through 5,500	\$95.00
5,501 through 6,500	\$115.00
6,501 through 8,500	\$135.00
8,501 through 10,000	\$185.00
10,001 through 13,000	\$230.00
13,001 through 17,000	\$265.00
17,001 through 20,000	\$300.00
20,001 through 25,000	\$375.00
25,001 through 30,000	\$500.00
30,001 through 40,000	\$625.00
40,001 through 50,000	\$750.00

50,001 through 75,000	\$1,000.00
75,001 through 100,000	\$1,250.00
100,001 and over	\$1,500.00

2. Rotary-wing aircraft shall be taxed at two times the Schedule "A" fee, based on the same weight classifications.

3. Multiengine piston aircraft shall be taxed at three times the Schedule "A" fee, based on the same weight classifications.

4. Turbo-prop aircraft shall be taxed at six times the Schedule "A" fee, based on the same weight classifications.

5. Turbo-jet aircraft shall be taxed at ten times the Schedule "A" fee, based on the same weight classifications.

6. Antique aircraft as defined by the Federal Aviation Administration, sailplanes, balloons, and home-built aircraft shall be subject to a flat-rate fee of Ten Dollars (\$10.00).

7. The fees of this subsection, except those in paragraph 6 of this subsection, shall be reduced at a rate of ten percent (10%) each year following the date of manufacture until the fee is equal to fifty percent (50%) of the original fee, which shall then be the fee for each year thereafter.

8. Every aircraft owner shall have the right to appeal the assessment of the fee as provided for in this subsection, and the Oklahoma ~~Tax~~ Aeronautics Commission shall appraise the aircraft and its avionics as personal property at the fair market value thereof, and shall apply a twelve-percent assessment rate which shall be levied at the appropriate county millage rate.

B. Aircraft purchased after January 1 of each year and subject to registration as provided for in this section shall be registered and taxed on a prorated basis. Registration fees and taxes shall be in lieu of all aircraft ad valorem taxes. All such monies collected shall be paid to the Oklahoma ~~Tax~~ Aeronautics Commission and ~~disbursed as follows:~~

~~1. Three percent (3%) of all such funds shall be paid to the State Treasurer for deposit to the credit of the General Revenue Fund of the State Treasury; and~~

~~2. Ninety-seven percent (97%) of said registration fees and taxes shall be deposited in the Oklahoma Aeronautics Commission Revolving Fund.~~

SECTION 6. AMENDATORY 3 O.S. 2001, Section 256.1, is amended to read as follows:

Section 256.1 A. The Oklahoma ~~Tax~~ Aeronautics Commission is hereby authorized to require the owner of each aircraft to pay a filing fee for the purpose of filing necessary liens with the Federal Aviation Administration when any registration fees required to be paid by said owner pursuant to the provisions of Section 256 of this title, or taxes levied pursuant to the provisions of Title 68 of the Oklahoma Statutes shall become delinquent. Said fee shall not exceed the actual cost of filing said liens with the Federal Aviation Administration and shall be collected in the same manner as said liens are collected.

B. The Special Agency Account Board is hereby directed to create an agency special account in which shall be deposited monies from subsection A of Section 256 of this title for the purpose of filing liens pursuant to subsection A of this section. All monies accruing to the credit of said account may be budgeted and expended by the Oklahoma ~~Tax~~ Aeronautics Commission for the purpose of paying for filing all necessary liens with the Federal Aviation Administration.

The amount of any balance of said agency special account in excess of Four Thousand Dollars (\$4,000.00) at the close of each fiscal year shall revert to the General Revenue Fund of this state to be paid out pursuant to direct appropriation by the Legislature.

SECTION 7. AMENDATORY 68 O.S. 2001, Section 6002, is amended to read as follows:

Section 6002. Beginning on and after July 1, 1984, there shall be levied an excise tax of three and one-fourth percent (3 1/4%) of the purchase price of each aircraft that is to be registered with the Federal Aviation Administration, upon the transfer of legal ownership of any such aircraft or the use of any such aircraft within this state. The excise tax levied pursuant to the provisions of Sections 6001 through 6004 of this title is in lieu of all other taxes on the transfer or the first registration in this state on aircraft, including optional equipment and accessories attached thereto at the time of sale and sold as a part thereof, except annual aircraft registration fees. The tax hereby levied shall be due at the time of the transfer of legal ownership or first registration in this state, and shall be collected by the Oklahoma ~~Tax~~ Aeronautics Commission at the time of the issuance of a certificate of registration for any such aircraft. The excise tax levied pursuant to the provisions of this section shall be delinquent from and after the twentieth day after the legal ownership or possession of any aircraft is obtained. Any person failing or refusing to pay the tax provided for in this section on or before the date of delinquency shall pay, in addition to the tax, a penalty of ten percent (10%) on the total amount of tax due. Interest shall be collected on the total delinquent tax at the rate of one and one-fourth percent (1 1/4%) per month from the date of the delinquency until said tax is paid.

SECTION 8. AMENDATORY 68 O.S. 2001, Section 6004, is amended to read as follows:

Section 6004. The ~~Tax~~ Oklahoma Aeronautics Commission shall require every person licensed as a dealer in aircraft pursuant to the provisions of Sections 251 through 257 of Title 3 of the Oklahoma Statutes to make a report to the ~~Tax~~ Oklahoma Aeronautics Commission within a period of thirty (30) days after the transfer by such person of the legal ownership of any aircraft. The report

shall be made on a form prescribed and furnished by the ~~Tax~~ Oklahoma Aeronautics Commission, showing the name and address of the purchaser, a description of the aircraft, including the name of the manufacturer, the Federal Aviation Administration registration number of the aircraft, the type and year manufactured, the serial number, the date of the transfer, and the amount of the sale price. The ~~Tax~~ Oklahoma Aeronautics Commission may cancel or suspend the license of any person licensed as a dealer in aircraft pursuant to the provisions of Sections 251 through 257 of Title 3 of the Oklahoma Statutes who shall fail or refuse to comply with the provisions of Sections ~~2~~ 6001 through ~~8~~ 6007 of this ~~act~~ title.

SECTION 9. AMENDATORY 68 O.S. 2001, Section 6005, is amended to read as follows:

Section 6005. A. ~~For fiscal years beginning prior to July 1, 1999, all revenues derived pursuant to the provisions of Sections 6001 through 6007 of this title shall be paid monthly by the Oklahoma Tax Commission to the State Treasurer and placed to the credit of the General Revenue Fund to be paid out pursuant to direct appropriation by the Legislature.~~

B. 1. ~~For the fiscal year beginning July 1, 1999, fifty percent (50%) of all revenues derived pursuant to the provisions of Sections 6001 through 6007 of this title shall be paid monthly by the Tax Commission to the State Treasurer and placed to the credit of the General Revenue Fund to be paid out pursuant to direct appropriation by the Legislature, and fifty percent (50%) of the revenues shall be placed to the credit of the Oklahoma Aeronautics Commission Revolving Fund; and~~

2. ~~For the fiscal year beginning July 1, 2000, and for each fiscal year thereafter~~ through the effective date of this act, one hundred percent (100%) of the revenues derived pursuant to the provisions of Sections 6001 through 6007 of this title shall be paid monthly by the Oklahoma Tax Commission to the State Treasurer and

shall be placed to the credit of the Oklahoma Aeronautics Commission Revolving Fund. After the effective date of this act, one hundred percent (100%) of the revenues derived pursuant to the provisions of Sections 6001 through 6007 of this title shall be deposited in the Oklahoma Aeronautics Commission Revolving Fund.

SECTION 10. AMENDATORY 68 O.S. 2001, Section 6006, is amended to read as follows:

Section 6006. A. If the owner of an aircraft subject to the tax levied pursuant to the provisions of this act fails or refuses to pay said tax after proper demand thereof by an officer or agent of the ~~Tax~~ Oklahoma Aeronautics Commission, such officer or agent shall report said failure to the ~~Tax~~ Oklahoma Aeronautics Commission, and shall seize and hold the aircraft in the same manner as provided for in Section 116.14 of Title 47 of the Oklahoma Statutes for the seizure of motor vehicles.

B. The ~~Tax~~ Oklahoma Aeronautics Commission, upon demand of the owner of said aircraft, shall accord a hearing to said owner as provided for by law and enter its findings and order accordingly. If it shall be determined by the ~~Tax~~ Oklahoma Aeronautics Commission that said tax is due and payable, then it shall issue its warrant directly to the sheriff of the county in which the aircraft is located, and direct the sale of such aircraft according to the same procedures provided for in Section 116.14 of Title 47 of the Oklahoma Statutes for the sale of vehicles for failure to pay the annual license fee. Such seizure and sale of such aircraft may include both the registration fee due and the excise tax levied pursuant to the provisions of this act, together with all costs of advertisement and sale. The sale shall be conducted in the same manner as provided for by law for the sale of personal property under execution.

SECTION 11. AMENDATORY 68 O.S. 2001, Section 6007, is amended to read as follows:

Section 6007. Authority is hereby given to the Oklahoma ~~Tax~~
Aeronautics Commission to promulgate all necessary rules ~~and~~
~~regulations~~ for the purpose of implementing and enforcing the
provisions of Sections ~~2 through 6 of this act~~ 6001 through 6005 of
this title.

SECTION 12. This act shall become effective January 1, 2006.

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