

CHAPTER 360.

AERONAUTICS

The Minnesota statutes relating to aircraft are now in harmony with the legislative enactments of other states and with the federal law, and are adequate and sufficient to enable Minnesota municipalities to comply in all respects with the provisions of the Federal Airport Act and the regulations promulgated thereunder with reference to sponsors, and are in a position to make application under rule 550.13 promulgated by the federal administrator of civil aeronautics.

In Minnesota the initial enactment was L. 1921, c. 433, regulating the operation of aircraft over cities of the first class. L. 1925, c. 406, provided for the inspection, certification, and regulation of aircraft and licensing of pilots. The law was administered by the adjutant general. L. 1927, c. 62, authorized certain cities of the first class to acquire and equip airports. L. 1929, c. 125, extended the privilege to all cities of the first class and authorized the raising of funds; L. 1929, c. 217, extended the privilege to all cities, villages, towns, and counties; and L. 1931, c. 214, authorized political subdivisions of the state to acquire air rights over property adjacent to a public airport.

L. 1933, c. 430, was the first complete code relating to aeronautics. It did not expressly repeal any of the existing provisions of law, but some of the sections were impliedly superseded. It created the Minnesota Aeronautics Commission consisting of five persons appointed by the governor. It authorized the registration and licensing of pilots and aircraft. A state aviation fund was established.

L. Ex. 1934, c. 55, related to certain villages.

The State Aeronautics Department, as now constituted, was created by L. 1943, c. 653. It expressly repealed sections 360.01 through 360.53 and established a department of aeronautics under a commission appointed by the governor. This law was variously amended by L. 1945, c. 303, and again by L. 1947, cc. 175 and 548.

The Uniform Airports Act originated with L. 1945, c. 303, ss. 10 to 23, inclusive.

The Airport Zoning Act originated with L. 1945, c. 303, ss. 24 to 37, inclusive.

The Metropolitan Airports Commission was created by L. 1943, c. 500, and amended by L. 1947, c. 363; the Reciprocity Act originated with L. 1945, c. 175; the Aircraft Registration and Taxation Act originated with L. 1945, c. 411; and the Minnesota Aeronautics Fund, carrying an appropriation and authorizing the sale of certificates of indebtedness and tax levies, originated with L. 1945, c. 469, and was materially amended by L. 1947, cc. 22, 548, and 585.

It has been the policy of the legislature, beginning with the enactment of L. 1943, c. 653, to conform as closely as possible to the model State Aeronautics Commission Act, the Revised Uniform Airports Act, and the State Airport Zoning Act as those model acts were promulgated by the Council of State Governments, and the 1947 enactments follow closely the suggestions found in a brochure promulgated by the Council of State Governments entitled "Suggested State Legislation Program for 1947." Complete instructions as to compliance with section 550.13 of the rules and regulations of the federal administrator of civil aeronautics for the benefit of municipalities planning to become sponsors of airports and to obtain federal aid, including compliance with the channeling act, L. 1947, c. 22, is found in Opinion of the Attorney General, June 30, 1947 (234).

Sections 360.01 through 360.53 were repealed by L. 1943, c. 653, s. 24.

L. 1943, c. 653, ss. 3 through 19, were repealed by L. 1945, c. 303, s. 38.

STATE AERONAUTIC DEPARTMENT ACT

360.011 DECLARATION.

Flight by aircraft as constituting trespass or nuisance. 15 MLR 318; 16 MLR 305; 21 MLR 572.

Liability of owner of airplane for injuries to passengers. 16 MLR 580.

Jurisdiction of courts over acts committed in the air-space over territorial limits of the jurisdictional district. 20 MLR 81.

Res ipsa loquitor; application to airplane accidents. 22 MLR 101.

360.012 SOVEREIGNTY.

Trespassers in the sky. 15 MLR 318; 21 MLR 572, 773.

Aeronautics; property rights in the air column; eminent domain. 31 MLR 384.

Vertical extent of ownership inland. 76 U. Pa. L. R. 631, 639, 640.

360.013 DEFINITIONS.

Subd. 20, amended by L. 1947 c. 363 s. 1.

Schools giving instruction in aeronautics ground subjects should be licensed by the commissioner of aeronautics and not as a trade school. The commissioner of aeronautics having granted an air school license to an applicant, the licensee need not apply to the commissioner of education for a trade school license for that portion of the instruction carried out on the ground. OAG April 26, 1944 (170-I); OAG June 26, 1944 (170-I).

The construction of an airport includes the erection of buildings thereon. OAG Oct. 26, 1945 (234-B).

A lease to one tenant, with exclusive right to conduct an air flight school, prevents authorization to tenants merchandising planes or plane parts to teach prospective customers to fly. OAG Nov. 21, 1946 (234-B).

Funds of metropolitan airports commission are not available for improvements to the University of Minnesota airport unless that airport is acquired by the commission in accordance with the metropolitan airports commission act. OAG Dec. 13, 1946 (234).

360.015 COMMISSIONER; POWERS AND DUTIES.

Subd. 3, amended by L. 1947 c. 363 s. 1.

Subd. 6, amended by L. 1947 c. 175 s. 1.

Subd. 13, amended by L. 1947 c. 363 s. 2.

Under the provisions of L. 1943, c. 653, s. 3, subd. 3, the commissioner of aeronautics is authorized to provide instructors to give a short course in manual arts aircraft instruction at the state university. OAG Aug. 17, 1943 (234).

Where, as in Red Wing, the airport is over in Wisconsin, the matter of rules and regulations must be worked out by cooperation between the commissioner and the municipality where the airport is located, and the Wisconsin department. OAG June 3, 1946 (234-B).

360.016 FEDERAL AID.

Amended by L. 1947 c. 175 s. 2.

A home rule city must be governed by the provisions of its charter and other municipalities by the provisions of the statutes as to the use of funds allocated directly to the municipality. OAG July 30, 1945 (234).

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AERONAUTICS 360.0215

360.0161 FEDERAL AID; APPLICATION FOR; DISBURSEMENT OF.

HISTORY. 1947 c. 22 ss. 1, 2, 3.

360.017 STATE AIRPORTS FUND CREATED.

L. 1945, c. 303, s. 5, approved April 16, 1945, and coded as section 360.017; and L. 1945, c. 418, s. 9, approved April 19, 1945, and coded as section 270.077; and L. 1945, c. 469, s. 6, subd. 3, approved April 21, 1945, and coded as section 360.306, all deal with the disposition of state airports funds; and interpreted under the provisions of section 645.26, subd. 3, the provisions of the later statutes are controlling. OAG July 30, 1945 (234).

360.018 REGULATION OF AIRCRAFT, AIRMEN, AIRPORTS, AND AIR INSTRUCTION.

Subd. 1, amended by L. 1947 c. 175 s. 3.

Subd. 3, amended by L. 1947 c. 175 s. 4.

Subd. 5, amended by L. 1947 c. 363 s. 13.

Subd. 7, amended by L. 1947 c. 363 s. 5.

Subd. 9, amended by L. 1947 c. 363 s. 4.

Where a physician applied to the defendant for a plane to take his patient from Minneapolis to Rochester but did not know whether the patient would be available, there was no completed contract between the plaintiff and the defendant for the special charter of the airplane, and in consequence there may be no recovery by him for injuries received in an emergency landing by a plane owned and operated by another company which, because of the inability of the defendant to charter the expected airplane, undertook the flight. *Roberts v Northwest Airlines*, 201 M 89, 275 NW 410.

Refusal of the commission to approve the operation of a property as an airport, and refusal to grant or renew a license does not constitute deprivation of property without compensation. *State v Mpls. St. P. Commission*, 223 M 175, 25 NW(2d) 720.

Schools giving instruction in aeronautics ground subjects should be licensed by the commissioner of aeronautics and not as a trade school. The commissioner of aeronautics having granted an air school license to an applicant, the licensee need not apply to the commissioner of education for a trade school license for that portion of the instruction carried out on the ground. OAG April 26, 1944 (170-I); OAG June 26, 1944 (170-I).

To secure the approval of the commissioner, or state aid, it is not required that the title to the property of the applicant for an airport license be in fee simple. OAG July 16, 1945 (234-B).

In order that a complete airport be built up and serve the best interests of the state one of the duties of the commissioner of aeronautics is to report to the governor the necessity of state sustenance to any particular municipality requiring it. OAG July 30, 1945 (234).

Where, as in *Red Wing*, the airport is over in Wisconsin, certain activities must be under the Wisconsin department supervision. OAG June 3, 1946 (234-B).

360.021 ACQUISITION AND OPERATION OF STATE AIRPORTS.

Amended by L. 1947 c. 175 s. 5.

360.0215 COMMISSIONER MADE ATTORNEY TO ACCEPT PROCESS; EXTENSION OF TIME TO ANSWER.

HISTORY. 1947 c. 46 s. 1.

REVISED UNIFORM AIRPORTS ACT

360.031 DEFINITIONS.

Out of land conditionally conveyed by the state to the city of Duluth for the establishment of an airport by the city's lessee was a use thereof for park purposes and hence for "purposes of public recreation and health" within the condition of the deed. OAG April 8, 1946 (59-A-40).

360.032 MUNICIPALITIES MAY ACQUIRE AIRPORTS.

Second and third class cities may condemn land for a new airport, and the land condemned need not be contiguous to the existing airport. OAG Jan. 28, 1943 (59-A-7).

A Minnesota city may acquire land in an adjoining state for the establishment of an airport, there being no prohibitive act in the state where the land is acquired. OAG June 15, 1943 (59-A-40).

A municipality may appropriate funds for a preliminary survey for the purpose of determining the advisability of establishing an airport. OAG Sept. 28, 1944 (59-A-22).

If there is no negligence on the part of a village which owns and operates an airport or its employees, either would not be liable for the negligence of persons operating planes thereon. OAG May 7, 1945 (234-B).

There need be no petition or levying of assessments if the village extends water mains to a municipal airport. OAG May 8, 1945 (624-D-11).

Allocation of funds to city of South St. Paul is discretionary with the governor upon advice of the LAC since section 360.305 does not limit use of the Minnesota aeronautics fund to assistance to airports owned in fee simple. The South St. Paul airport is located on federal lands and leased by the city. OAG Dec. 2, 1946 (234).

Construction or operation of airports as nuisance. 29 MLR 38.

360.033 SOVEREIGN RIGHTS.

In the absence of a supreme court decision construing section 360.033, subd. 1, it cannot be said with certainty that a village in the operation of an airport would not be liable for negligence. OAG May 7, 1945 (234-B).

360.035 EXEMPTION FROM TAXATION.

If a city acquires property for airport purposes it must devote the land to the public use for which it was acquired without unreasonable delay if the property is to remain tax exempt. A short time lease of the land for agricultural purposes would not defeat the exemption. OAG July 6, 1944 (234-B).

An airport owned and operated by a municipality is under the provisions of section 360.035 exempt from taxation. OAG March 1, 1946 (414-A-11).

360.036 PURCHASE PRICE; COST OF IMPROVEMENT.

Bonds to provide for the purchase of property and construction of a village airport must be authorized, issued and executed according to the statutes applicable to the issuance of village bonds. OAG Oct. 26, 1945 (234-B).

Surpluses in the various accounts included in the city's general fund are "moneys available" for purchase of improvements of airports. OAG Sept. 19, 1945 (234-B).

360.038 SPECIFIC POWERS OF MUNICIPALITIES.

Whether a city may under section 360.013, subds. 5, 6, or under section 360.038, expend public funds on a landing strip to be used solely for the conduct of a flight school, is a question of fact. OAG Sept. 13, 1946 (234-B).

360.039 FEDERAL AID.

Amended by L. 1947 c. 175 s. 6.

AIRPORT ZONING ACT

360.074 ACQUISITION OF AIR RIGHTS.

Property rights in the air column; flight by aircraft as constituting trespass or nuisance. 15 MLR 318.

360.075 VIOLATIONS; PENALTIES.

Amended by L. 1947 c. 175 s. 7.

METROPOLITAN AIRPORTS COMMISSION ACT

360.101 DECLARATION OF PURPOSES.

Amended by L. 1947 c. 363 s. 6.

Being a public corporation, the metropolitan airports commission is exempt from paying school district taxes. OAG March 2, 1945 (166-C-5).

In dealing with any provisions of the law relating to tax-forfeited lands the Minneapolis-St. Paul metropolitan airports commission is a state agency. OAG June 21, 1946 (234).

360.102 DEFINITIONS.

Subd. 6, amended by L. 1947 c. 363 s. 7.

Subd. 10. L. 1947 c. 363 s. 8.

360.103 METROPOLITAN AIRPORTS COMMISSION.

Laws 1943, c. 500, is not special as distinguished from general legislation merely because at the time it was passed there was but one group of two contiguous cities of the first class to which it could be applied, if the classification was not arbitrary or special, but applicable generally and uniformly throughout the state. *Monaghan v Armitage*, 218 M 108, 15 NW(2d) 241.

360.106 OFFICERS.

Amended by L. 1947 c. 363 s. 9.

360.107 POWERS OF CORPORATION.

Subd. 7, amended by L. 1947 c. 363 s. 10.

Subd. 14, amended by L. 1947 c. 363 s. 11.

Subd. 17, amended by L. 1947 c. 363 s. 12.

Subd. 18., L. 1947 c. 363 s. 17.

Funds of metropolitan airports commission are not available for improvements to the University of Minnesota airport unless that airport is acquired by the commission in accordance with the metropolitan airports commission act. OAG Dec. 13, 1946 (234).

360.108 SURVEY OF EXISTING AIRPORTS; REPORT TO GOVERNOR.

Subd. 5, amended by L. 1947 c. 363 s. 13.

360.109 EXERCISE OF POWERS.

Subd. 1, amended by L. 1947 c. 363 s. 14.

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360.111 AERONAUTICS

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360.111 CORPORATION TO EXERCISE CONTROL AND JURISDICTION OVER EXISTING AIRPORTS.

Amended by L. 1947 c. 363 s. 15.

Refusal of the commission to approve the operation of a property as an airport and refusal to grant or renew a license does not constitute deprivation of property without compensation. State ex rel v Mpls.-St. P. Airports Comm. 223 M 175, 25 NW(2d) 720.

Although a privately owned airport has been approved by the metropolitan airports commission, the owner of the airport must still obtain a license from the department of aeronautics in the usual way. OAG Sept. 11, 1943 (234-B).

360.113 PUBLIC AND GOVERNMENTAL PURPOSES.

Subd. 1, amended by L. 1947 c. 363 s. 16.

Funds of metropolitan airports commission are not available for improvements to the University of Minnesota airport unless that airport is acquired by the commission in accordance with the metropolitan airports commission act. OAG Dec. 13, 1946 (234).

360.124 NEW AIRPORT; PUBLIC HEARING.

HISTORY. 1947 c. 363 s. 18.

360.125 CERTIORARI.

HISTORY. 1947 c. 363 s. 19.

MINNESOTA AERONAUTICS FUND AND APPROPRIATION ACT

360.301 MINNESOTA AERONAUTICS FUND CREATED; TAX LEVIES.

The commissioner may grant state aid even though the property on which the money is to be expended is not owned in fee simple by the applicant. OAG July 16, 1945 (234-B).

The expense of supervision by the commissioner of aeronautics in each allotment instance may be paid from the project fund. OAG July 30, 1945 (234).

360.304 APPROPRIATION.

To conserve the public interest it is the duty of the commissioner of aeronautics to report to the governor upon the necessity of assistance by the state to any municipality applying for assistance. OAG July 30, 1945 (234).

360.305 EXPENDITURE.

Subds. 4, 5, amended by L. 1947 c. 548 s. 1.

Under the provisions of section 360.305, subdivision (3), the city of Thief River Falls has a right to claim as credit the funds shown by its credit application in the same manner as though the proceeds of the crops had first been paid into the city treasury and then expended from that treasury for the purposes shown under the heading "expenditures." OAG July 3, 1946 (234-B).

Allocation of funds to city of South St. Paul is discretionary with the governor upon advice of the Legislative Advisory Committee since section 360.305 does not limit use of the Minnesota aeronautics fund to assistance to airports owned in fee simple. The South St. Paul airport is located on federal lands and leased by the city. OAG Dec. 2, 1946 (234).

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AERONAUTICS 360.63

360.306 TRANSFERS FROM STATE AIRPORTS FUND.

Funds of metropolitan airports commission are not available for improvements to the University of Minnesota airport unless that airport is acquired by the commission in accordance with the metropolitan airports commission act. OAG Dec. 13, 1946 (234).

360.31 to 360.49. Repealed by L. 1943 c. 653 s. 24.

360.311 ADDITIONAL TAX LEVIES FOR MINNESOTA AERONAUTICS FUND.

HISTORY. 1947 c. 585 s. 1.

360.321 CERTIFICATES OF INDEBTEDNESS; SERIES 11.

HISTORY. 1947 c. 585 s. 2.

360.331 AUTHORIZED INVESTMENT.

HISTORY. 1947 c. 585 s. 3.

360.341 APPROPRIATION.

HISTORY. 1947 c. 585 s. 4.

360.351 EXPENDITURE.

HISTORY. 1947 c. 585 s. 5.

360.361 TRANSFERS FROM STATE AIRPORTS FUND.

HISTORY. 1947 c. 585 s. 6.

360.371 APPROPRIATION IS ADDITIONAL TO OTHERS.

HISTORY. 1947 c. 585 s. 7.

AIRCRAFT REGISTRATION AND TAXATION ACT

360.53 TAXATION.

Where, as in Red Wing, the airport is located in Wisconsin, certain activities must be under the Wisconsin department supervision. OAG June 3, 1946 (234-B).

360.59 REGISTRATION AND LISTING.

Where aircraft is brought into the state of Minnesota from another state the department of aeronautics may accept as evidence of the chain of ownership the aircraft registration certificate issued by the department of commerce. OAG May 25, 1945 (234).

360.63 DEALERS LICENSE.

Funds received for dealers licenses are credited to the state airports fund. OAG Aug. 13, 1945 (234-B).