

AERONAUTICS CODE OF THE STATE OF MICHIGAN (EXCERPT)

Act 327 of 1945

CHAPTER IX

PENAL PROVISIONS—JURISDICTION OF CRIMES, TORTS, CONTRACTS.

259.176 Violation as state civil infraction; fine.

Sec. 176. Except as otherwise provided in this act, a person who violates this act is responsible for a state civil infraction as provided for in chapter 88 of the revised judiciary act of 1961, Act No. 236 of the Public Acts of 1961, being sections 600.8801 to 600.8835 of the Michigan Compiled Laws, and is subject to a civil fine of not more than \$500.00.

History: 1945, Act 327, Imd. Eff. May 28, 1945;—CL 1948, 259.176;—Am. 1976, Act 191, Imd. Eff. July 8, 1976;—Am. 1996, Act 370, Imd. Eff. July 3, 1996.

Former law: See section 6 of Act 182 of 1927, being CL 1929, § 4834; section 5 of Act 63 of 1931.

259.176a Suspension or revocation of license, certificate, or letter of authority; grounds.

Sec. 176a. The commission or its authorized representative, after consideration of the issues of fact and after hearing held, may suspend or permanently revoke, or both, a license, certificate, or letter of authority of any person who does any of the following:

(a) Knowingly forges, counterfeits, alters, or falsely makes a certificate authorized to be issued under this act or the rules promulgated under this act, or uses or attempts to use any such certificate.

(b) Knowingly makes a false statement in an application for a license or registration or in a report required by the commission.

(c) Violates a condition or provision of a license or letter of authority issued by the commission.

(d) Fails to render reports requested by, and within the time limits prescribed by, the commission.

(e) Fails to maintain the minimum standards determined by the commission.

(f) Commits an act on the part of a flight school by a flight instructor or representative that is contrary to public safety or to the proper training of students enrolled in a flight school.

(g) Fails to comply, in whole or part, with any rule promulgated by the commission.

(h) Fails to abate a hazard certified by the commission.

History: Add. 1996, Act 370, Imd. Eff. July 3, 1996.

259.177 Jurisdiction of crimes and torts.

Sec. 177. Jurisdiction of crimes and torts. All crimes, torts and other wrongs committed by or against an airman or passenger while in flight over this state shall be governed by the laws of this state; and the question whether damage occasioned by or to an aircraft while in flight over this state constitutes a tort crime or other wrong by or against the owner of such aircraft, shall be determined by the laws of this state.

History: 1945, Act 327, Imd. Eff. May 28, 1945;—CL 1948, 259.177.

Former law: See section 7 of Act 224 of 1923, being CL 1929, § 4817.

259.178 Contracts made during flight; effect.

Sec. 178. Contracts made during flight. All contractual and other legal relations entered into by airmen or passengers while in flight over this state shall have the same effect as if entered into on the land or water beneath.

History: 1945, Act 327, Imd. Eff. May 28, 1945;—CL 1948, 259.178.

Former law: See section 8 of Act 224 of 1923, being CL 1929, § 4818.

259.179 Unlawful methods of hunting; violation as state civil infraction; penalty.

Sec. 179. (1) A person shall not hunt, pursue, or kill any wild waterfowl or other birds or animals by any means whatever during the time the person is upon any kind of aircraft.

(2) A person who violates this section is subject to a state civil infraction as provided for in section 176, and is prohibited from obtaining or possessing a hunting license for a period of 1 year.

History: 1945, Act 327, Imd. Eff. May 28, 1945;—CL 1948, 259.179;—Am. 1996, Act 370, Imd. Eff. July 3, 1996.

259.180 Reckless operation of aircraft as misdemeanor; penalty.

Sec. 180. A person who operates any aircraft within the airspace over, above, and upon the lands and waters of the state, carelessly and heedlessly in willful or wanton disregard of the rights or safety of others, or without due caution and circumspection and in a manner so as to endanger or be likely to endanger any person or property, is guilty of a misdemeanor punishable by imprisonment for not more than 90 days, a fine of not more than \$500.00, or both.

more than \$500.00, or community service of not more than 30 days, or any combination of these penalties.

History: 1945, Act 327, Imd. Eff. May 28, 1945;—CL 1948, 259.180;—Am. 1996, Act 370, Imd. Eff. July 3, 1996.

259.180a Liability for injury occasioned by negligent operation of aircraft.

Sec. 180a. (1) Except as otherwise provided in subsection (2), the owner or operator or the person or organization responsible for the maintenance or use of an aircraft shall be liable for any injury occasioned by the negligent operation of the aircraft, whether the negligence consists of a violation of statute, or in the failure to observe ordinary care in the operation of the aircraft, as the rules of the common law require.

(2) The owner of an aircraft shall not be liable for an injury occasioned by the negligent operation of the aircraft, as described in subsection (1), unless the aircraft was being operated with the owner's express or implied consent or knowledge at the time the injury occurred.

(3) "Person or organization responsible for the maintenance or use of an aircraft" does not include a mechanic who is an independent contractor and who has performed work on or furnished materials, supplies, or equipment for an aircraft, or any employee of the mechanic.

History: Add. 1958, Act 114, Eff. Sept. 13, 1958;—Am. 1988, Act 427, Eff. Mar. 30, 1989.

Constitutionality: The aviation guest passenger exception is unconstitutional. Longnecker v Noordyk-Mooney, Inc., 394 Mich 696; 232 NW2d 654 (1975).

259.181 Tampering with markings of airports, landing fields, and aeronautical facilities; violation as misdemeanor; penalty.

Sec. 181. A person shall not tamper with, alter, destroy, remove, carry away, or cause to be carried away any objects used for the marking of licensed airports, landing fields, or other aeronautical facilities, or in any way change their position or location, except by the direction of the proper authorities charged with the maintenance and operation of the facilities. A person who violates this section or has illegally in his or her possession any objects or devices used for marking of airports, landing fields, or other aeronautical facilities is guilty of a misdemeanor punishable by imprisonment for not more than 90 days, a fine of not more than \$500.00, or community service of not more than 30 days, or any combination of these penalties.

History: 1945, Act 327, Imd. Eff. May 28, 1945;—CL 1948, 259.181;—Am. 1996, Act 370, Imd. Eff. July 3, 1996.

259.182 Allowing domestic animals or fowl on airport facility.

Sec. 182. The owner or keeper of any domestic animal or fowl shall not allow the domestic animal or fowl to run at large and enter or be upon any airport, landing field, or other aeronautical facility.

History: 1945, Act 327, Imd. Eff. May 28, 1945;—CL 1948, 259.182;—Am. 1996, Act 370, Imd. Eff. July 3, 1996.

259.183 Conduct constituting felony; penalty.

Sec. 183. A person who willfully and without authority takes possession of or uses an aircraft, or unlawfully removes or takes any component parts of an aircraft, and a person who assists in, or is a party to taking illegal possession of or use of an aircraft or component parts belonging to another, and a person who willfully and unlawfully makes an aircraft unsafe, and a person who assists in, or is a party to making an aircraft unsafe, is guilty of a felony punishable by imprisonment for not more than 5 years, a fine of not more than \$2,000.00, or community service of not more than 6 months, or any combination of these penalties.

History: 1945, Act 327, Imd. Eff. May 28, 1945;—CL 1948, 259.183;—Am. 1976, Act 191, Imd. Eff. July 8, 1976;—Am. 1996, Act 370, Imd. Eff. July 3, 1996.

259.184 Conduct requiring authorization by airport management; violation as misdemeanor; penalty.

Sec. 184. (1) A person shall not trespass upon the area within the boundary of an approved or licensed airport, landing field, or other aeronautical facility, or operate or cause to be operated a vehicle or device, or conduct an activity upon or across a licensed airport, landing field, or other aeronautical facility, unless that operation or activity is authorized by the airport management.

(2) A person who violates this section is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$1,000.00, or both.

History: 1945, Act 327, Imd. Eff. May 28, 1945;—CL 1948, 259.184;—Am. 1976, Act 191, Imd. Eff. July 8, 1976;—Am. 1996, Act 370, Imd. Eff. July 3, 1996;—Am. 2006, Act 454, Eff. Mar. 30, 2007.

259.185 Operation of aircraft while under influence of intoxicating liquor or controlled substance.

Sec. 185. (1) A person, whether or not the person is the holder of a certificate of competency issued

pursuant to section 83, who is under the influence of intoxicating liquor or a controlled substance, or any drug or combination of drugs that renders a person incapable of safely operating an aircraft or acting as a crew member of an aircraft, or a combination of intoxicating liquor and a controlled substance or any drug or combination of drugs that renders a person incapable of safely operating an aircraft or acting as a crew member of an aircraft, shall not operate an aircraft or act or attempt to act as a crew member of an aircraft over or upon the lands or waters of this state. A peace officer may, without a warrant, arrest a person when the peace officer has reasonable cause to believe that the person was, at the time of an accident, the operator or crew member of an aircraft involved in the accident and was operating or acting or attempting to act as a crew member of the aircraft over or upon the lands or waters of this state while under the influence of intoxicating liquor or a controlled substance, or any drug or combination of drugs that renders a person incapable of safely operating an aircraft or acting as a crew member of an aircraft, or a combination of intoxicating liquor and a controlled substance or any drug or combination of drugs that renders a person incapable of safely operating an aircraft or acting as a crew member of an aircraft.

(2) A person, whether or not the person is the holder of a certificate of competency issued pursuant to section 83, who has an alcohol content of 0.02 grams or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine shall not operate an aircraft or act or attempt to act as a crew member of an aircraft over or upon the lands or waters of this state.

(3) A person, whether or not the person is the holder of a certificate of competency issued pursuant to section 83, shall not operate an aircraft or act or attempt to act as a crew member of an aircraft over or upon the lands or waters of this state within 8 hours after the consumption of an intoxicating liquor or a controlled substance, or any drug or combination of drugs that renders a person incapable of safely operating an aircraft or acting as a crew member of an aircraft.

(4) A person, whether or not the person is the holder of a certificate of competency issued pursuant to section 83, who operates an aircraft or acts as a crew member of an aircraft in violation of subsection (1), (2), or (3) and by the operation of that aircraft or by serving as a crew member of that aircraft causes the death of another person is guilty of a felony, punishable by imprisonment for not more than 15 years or a fine of not less than \$2,500.00 or more than \$10,000.00, or both.

(5) A person, whether or not the person is the holder of a certificate of competency issued pursuant to section 83, who operates an aircraft or acts as a crew member of an aircraft in violation of subsection (1), (2), or (3) and by the operation of that aircraft or by serving as a crew member of that aircraft causes a serious impairment of a body function of another person is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not less than \$1,000.00 or more than \$5,000.00, or both. As used in this subsection, "serious impairment of a body function" includes, but is not limited to, 1 or more of the following:

- (a) Loss of a limb or use of a limb.
- (b) Loss of a hand, foot, finger, or thumb or use of a hand, foot, finger, or thumb.
- (c) Loss of an eye or ear or use of an eye or ear.
- (d) Loss or substantial impairment of a bodily function.
- (e) Serious visible disfigurement.
- (f) A comatose state that lasts for more than 3 days.
- (g) Measurable brain damage or mental impairment.
- (h) A skull fracture or other serious bone fracture.
- (i) Subdural hemorrhage or subdural hematoma.

(6) Except as otherwise provided, a person who violates this section is guilty of a misdemeanor, punishable by imprisonment for not more than 93 days, or a fine of not less than \$100.00 or more than \$500.00, or both, together with costs of the prosecution.

(7) A person who violates this section or a local ordinance substantially corresponding to subsection (1), (2), or (3) within 7 years of a prior conviction may be sentenced to imprisonment for not more than 1 year, or a fine of not less than \$200.00 or more than \$1,000.00, or both, together with costs of the prosecution. For purposes of this section, "prior conviction" means a conviction under this section, a local ordinance substantially corresponding to subsection (1), (2), or (3) or a law of another state substantially corresponding to subsection (1), (2), (3), (4), or (5).

(8) A person who violates this section or a local ordinance substantially corresponding to subsection (1), (2), or (3) within 10 years of 2 or more prior convictions, as defined in subsection (7), is guilty of a felony, punishable by imprisonment for not more than 5 years, or a fine of not less than \$500.00 or more than \$5,000.00, or both, together with costs of the prosecution.

(9) As part of the sentence for a violation of this section or a local ordinance substantially corresponding to subsection (1), (2), or (3), the court may order the person to perform service to the community, as designated by the court, without compensation, for a period not to exceed 45 days. The person shall reimburse the state

or appropriate local unit of government for the cost of insurance incurred by the state or local unit of government as a result of the person's activities under this subsection.

(10) Before imposing sentence for a violation of this section or a local ordinance substantially corresponding to subsection (1), (2), or (3), the court shall order the person to undergo screening and assessment by a person or agency designated by the office of substance abuse services, to determine whether the person is likely to benefit from rehabilitative services, including alcohol or drug education and alcohol or drug treatment programs. As part of the sentence, the court may order the person to participate in and successfully complete 1 or more appropriate rehabilitative programs. The person shall pay for the costs of the screening, assessment, and rehabilitative services.

(11) Before accepting a plea of guilty or nolo contendere under this section, the court shall advise the accused of the statutory consequences possible as the result of a plea of guilty or nolo contendere in respect to the penalty imposed for violation of this section.

History: Add. 1985, Act 81, Eff. Mar. 31, 1986;—Am. 1995, Act 62, Eff. Oct. 1, 1995.

259.186 Prohibited conduct by owner of aircraft or person in charge or in control of aircraft.

Sec. 186. The owner of an aircraft or the person in charge or in control of an aircraft shall not knowingly permit the aircraft to be operated over or upon the lands or waters of this state by a person who is under the influence of intoxicating liquor or a controlled substance, or any drug or combination of drugs that renders a person incapable of safely operating an aircraft or acting as a crew member of an aircraft, or a combination of intoxicating liquor and a controlled substance or any drug or combination of drugs that renders a person incapable of safely operating an aircraft or acting as a crew member of an aircraft, or who consumed an intoxicating liquor or a controlled substance, or any drug or combination of drugs that renders a person incapable of safely operating an aircraft or acting as a crew member of an aircraft, within 8 hours before operating the aircraft or acting or attempting to act as a crew member of an aircraft. A person who violates this section is guilty of a misdemeanor, punishable by imprisonment for not more than 93 days, or a fine of not less than \$100.00 or more than \$500.00, or both, together with costs of the prosecution.

History: Add. 1985, Act 81, Eff. Mar. 31, 1986;—Am. 1995, Act 62, Eff. Oct. 1, 1995.

259.187 Chemical test generally.

Sec. 187. (1) The amount of alcohol or the presence of a controlled substance, or both, or any drug or combination of drugs that renders a person incapable of safely operating an aircraft or acting as a crew member of an aircraft, in the operator's blood at the time alleged as shown by chemical analysis of that person's blood, urine, or breath is admissible into evidence in a criminal prosecution for a violation of section 185, 186, or of a local ordinance substantially corresponding to section 185(1), (2), or (3), or section 186.

(2) If a test is given, the results of the test shall be made available to the person charged or the person's attorney upon written request to the prosecution, with a copy of the request filed with the court. The prosecution shall furnish the report at least 2 days before the day of the trial and the results shall be offered as evidence by the prosecution in a criminal proceeding. Failure to fully comply with the request shall bar the admission of the results into evidence by the prosecution.

(3) Except in a prosecution relating solely to a violation of section 185(2), it shall be presumed that the operator was under the influence of intoxicating liquor if the person's blood at the time contained 0.02 grams or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine at the time of testing as shown by chemical analysis of that person's blood, urine, or breath.

(4) A sample or specimen of urine or breath shall be taken and collected in a reasonable manner. Only a licensed physician, or an individual operating under the delegation of a licensed physician under section 16215 of the public health code, Act No. 368 of the Public Acts of 1978, being section 333.16215 of the Michigan Compiled Laws, and qualified to withdraw blood acting in a medical environment, at the request of a peace officer, may withdraw blood for the purpose of determining the amount of alcohol or the presence of a controlled substance, or both, or the presence of any drug or combination of drugs that renders a person incapable of safely operating an aircraft or acting as a crew member of an aircraft, in the person's blood, as provided in this act. Liability for a crime or civil damages predicated on the act of withdrawing blood and related procedures shall not attach to a licensed physician or individual operating under the delegation of a licensed physician who withdraws or analyzes blood or assists in the withdrawal or analysis in accordance with this act unless the withdrawal or an analysis is performed in a negligent manner.

(5) The tests shall be administered at the request of a peace officer having reasonable grounds to believe the person has committed a crime described in subsection (1). A person who takes a chemical test administered at the request of a peace officer, as provided in this section, shall be given a reasonable opportunity to have a person of his or her own choosing administer 1 of the chemical tests described in this

section within a reasonable time after his or her detention, and the results of the test shall be admissible and shall be considered with other competent evidence in determining the innocence or guilt of the defendant. If the person charged is administered a chemical test by a person of his or her own choosing, the person charged shall be responsible for obtaining a chemical analysis of the test sample. The person charged shall be informed that he or she has the right to demand that a person of his or her own choosing administer 1 of the tests provided for in subsection (1), that the results of the test shall be admissible and shall be considered with other competent evidence in determining the innocence or guilt of the defendant, and that the person charged shall be responsible for obtaining a chemical analysis of the test sample.

(6) The person charged shall be advised of the following:

(a) That if the person refuses the lawful request of a peace officer to take a test described in this section, a test shall not be given without a court order.

(b) That a written report will be forwarded by the peace officer to the federal aviation district office having jurisdiction over the county in which the person refused to submit to the test.

(c) That the person may be subject to sanctions as provided under federal law and regulations promulgated pursuant to federal law.

(7) This section shall not be construed as limiting the introduction of any other competent evidence bearing upon the question of whether or not the person was under the influence of intoxicating liquor or a controlled substance, or any drug or combination of drugs that renders a person incapable of safely operating an aircraft or acting as a crew member of an aircraft, or a combination of intoxicating liquor and a controlled substance or any drug or combination of drugs that renders a person incapable of safely operating an aircraft or acting as a crew member of an aircraft, or whether the person had an alcohol content of 0.02 grams or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine, or whether the person acted or attempted to act as a crew member of an aircraft or operated an aircraft within 8 hours after the consumption of an intoxicating liquor or a controlled substance or any drug or combination of drugs that renders a person incapable of safely operating an aircraft or acting as a crew member of an aircraft.

(8) If after an accident the operator of an aircraft or a crew member of an aircraft involved in the accident is transported to a medical facility and a sample of the person's blood is withdrawn at that time for the purpose of medical treatment, the result of a chemical analysis of that sample shall be admissible in a criminal prosecution for a crime described in subsection (1) to show the amount of alcohol or the presence of a controlled substance, or both, or the presence of any drug or combination of drugs that renders a person incapable of safely operating an aircraft or acting as a crew member of an aircraft, in the person's blood at the time alleged, regardless of whether the person had been offered or had refused a chemical test. The medical facility or person performing the chemical analysis shall disclose the results of the analysis to a prosecuting attorney who requests the results for use in a criminal prosecution as provided in this subsection. A medical facility or person disclosing information in compliance with this subsection shall not be civilly or criminally liable for making the disclosure.

(9) If after an accident the operator of an aircraft or a crew member of an aircraft involved in the accident is deceased, a sample of the decedent's blood shall be withdrawn in a manner directed by the medical examiner for the purpose of determining blood alcohol content or presence of a controlled substance, or both, or the presence of any drug or combination of drugs that renders a person incapable of safely operating an aircraft or acting as a crew member of an aircraft.

History: Add. 1985, Act 81, Eff. Mar. 31, 1986;—Am. 1985, Act 185, Imd. Eff. Dec. 20, 1985;—Am. 1995, Act 62, Eff. Oct. 1, 1995.

259.188 Chemical test; consent; administration.

Sec. 188. (1) A person who operates or who is a crew member of an aircraft over or upon the lands or waters of this state is considered to have given consent to chemical tests of his or her blood, breath, or urine for the purpose of determining the amount of alcohol or the presence of a controlled substance, or both, or the presence of any drug or combination of drugs that renders a person incapable of safely operating an aircraft or acting as a crew member of an aircraft, in his or her blood if he person is arrested for a violation of section 185 or a local ordinance substantially corresponding to section 185(1), (2), or (3).

(2) A person who is afflicted with hemophilia, diabetes, or a condition requiring the use of an anticoagulant under the direction of a physician shall not be considered to have given consent to the withdrawal of blood.

(3) The tests shall be administered as provided in section 187.

History: Add. 1985, Act 81, Eff. Mar. 31, 1986;—Am. 1995, Act 62, Eff. Oct. 1, 1995.

259.189 Chemical test; refusal; report.

Sec. 189. If a person refuses the lawful request of a peace officer to submit to a chemical test offered pursuant to section 187, a test shall not be given without a court order. A written report shall be forwarded by the peace officer to the federal aviation commission's general aviation district office having jurisdiction over the county in which the person refused to submit to the test. The report shall state that the officer had reasonable grounds to believe that the person committed a crime described in section 188, and that the person refused to submit to the test upon the request of the peace officer and was advised of the consequences of the refusal. The form of the report shall be prescribed and furnished by the Michigan aeronautics commission.

History: Add. 1985, Act 81, Eff. Mar. 31, 1986;—Am. 1995, Act 62, Eff. Oct. 1, 1995.

259.190 Rules for administration of chemical tests.

Sec. 190. Within 180 days after the effective date of this section, the department of state police shall present for public hearing pursuant to the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.328 of the Michigan Compiled Laws, uniform rules for the administration of chemical tests for the purposes of this act.

History: Add. 1985, Act 81, Eff. Mar. 31, 1986.

259.191 Report of conviction.

Sec. 191. If a person is convicted of a violation of section 185 or of a local ordinance substantially corresponding to section 185(1), (2), or (3), a report of the conviction shall be forwarded by the court in which the conviction occurred to the federal aviation commission's general aviation district office having jurisdiction over the county in which the violation occurred. The form of the report shall be prescribed and furnished by the Michigan aeronautics commission.

History: Add. 1985, Act 81, Eff. Mar. 31, 1986.