

HB

474

# HOUSE COMMITTEE REPORT

(7)

Date Referred to Committee: February 16, 2004

FURTHER REFERRALS:

Date of Committee Action: March 31, 2004

The JUDICIARY Committee considered:

HB 474

HOUSE BILL NO. 474

LIABILITY FOR AIRPORTS AND AIRSTRIPS

"An Act relating to civil liability associated with aircraft runways, airfields, and landing areas."




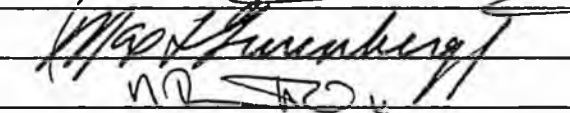
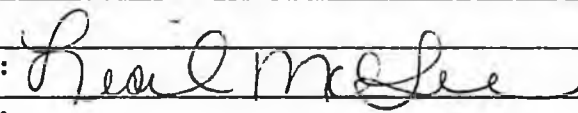
Recommends it be replaced with  HCS or  CS for HB 474 (JUD)  
 For Senate Bills with new title:  Technical Title  New Title: HCR \_\_\_\_\_  Same Title  New Title

- attach amendments
- add new referral to \_\_\_\_\_ Committee
- Letter of Intent \_\_\_\_\_ Committee

List of Abbrev for Depts.:  
 ADM  
 CED  
 COR  
 CRT  
 EED  
 DEC  
 DFG  
 GOV  
 HSS  
 LEG  
 LAW  
 IWF  
 MVA  
 DNR  
 DPS  
 REV  
 DOT  
 UA

<u>NEW FISCAL NOTES</u>				
*Assigned by Chief Clerk's Office				
List by Dept(s):	*FN#	Fiscal	Indet.	Zero
<u>DOT</u>				✓

<u>PREVIOUS FISCAL NOTES</u>				
List by Dept(s):	FN#	Fiscal	Indet.	Zero

<u>Signing with recommendations</u>	Printed Last Name	DP	DNP	NR	AM
	SAANGIS	X			
	HOLM	✓			
	Gora		✓		
 NR 2004	Greenberg	✓		⊖	
Chair: 	McBee	✓			
Chair:					

# FISCAL NOTE

**STATE OF ALASKA**  
**2004 LEGISLATIVE SESSION**

Fiscal Note Number: \_\_\_\_\_  
 Bill Version: HB474-DOT-CO-3-19-04  
 ( ) Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: DOT&PF  
 Title Civil Liability relating to airports RDU Administration & Support  
 Component Commissioner's Office  
 Sponsor Holm  
 Requester House Judiciary Component No. 530

**Expenditures/Revenues (Thousands of Dollars)**

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
-----------------------------	--	--	--	--	--	--

<b>CHANGE IN REVENUES ( )</b>						
-------------------------------	--	--	--	--	--	--

**FUND SOURCE (Thousands of Dollars)**

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2004) cost: 0.0  
 Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** *(Attach a separate page if necessary)*

Prepared by: Nona Wilson Phone 465-6973  
 Division Legislative Liaison Date/Time 3/19/04 12:10 PM  
 Approved by: John MacKinnon Date 3/19/2004  
 Agency Deputy Commissioner

OK to change " and " to " or on  
 HOUSE ROLL CALL - 2003/2004 *page 2*

Subject:

Date: *line 14*

Representative	Yea	Nay	Exc	Abs
<u>Anderson</u>	☺			
Berkowitz				
Chenault				
Cissna				
Coghill				
Crawford				
Croft				
Dahlstrom				
Fate				
Foster				
<u>Gara</u>	✓			
Gatto				
<u>Gruenberg</u>	~			
Guttenberg				
Harris				
Hawker				
Heinze				
<u>Holm</u>				
Joule				
Kapsner				
Kerttula				
Kohring				
Kookesh				
*Kott				
Lynn				
Masek				
<u>McGuire</u>	OK			
Meyer				
Morgan				
Moses				
Rokeberg				
<u>Samuels</u>	IM			
Seaton				
<del>Stevens</del> <u>Ogg</u>	○			
Stoltze				
Weyhrauch				
Whitaker				
Williams				
Wilson				
Wolf				
	Yea	Nay	Exc	Abs
<b>TOTALS</b>				

**CS FOR HOUSE BILL NO. 474(JUD)**

**IN THE LEGISLATURE OF THE STATE OF ALASKA  
TWENTY-THIRD LEGISLATURE - SECOND SESSION**

**BY THE HOUSE JUDICIARY COMMITTEE**

**Offered:  
Referred:**

**Sponsor(s): REPRESENTATIVES HOLM, McGuire**

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act relating to civil liability associated with aircraft runways, airfields, and landing**  
2 **areas."**

3 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 **\* Section 1.** AS 09.65.093 is amended to read:

5 **Sec. 09.65.093. Civil liability relating to aircraft runways, airfields, and**  
6 **landing areas. (a) Except as provided in (c) of this section, a [A NATURAL]**  
7 **person who without compensation constructs, maintains, or repairs an aircraft**  
8 **runway, airfield, or landing area may not be held civilly liable, except for an act or**  
9 **omission that constitutes gross negligence or recklessness or intentional misconduct,**  
10 **for the injury to or death of a person or for damage to an aircraft, resulting from the**  
11 **use of the runway, airfield, or landing area to take off, land, park, or operate an**  
12 **aircraft.**

13 **(b) A [NATURAL] person who is the owner or operator of an aircraft runway,**  
14 **airfield, or landing area [THAT IS LOCATED ON PRIVATE LAND] is not civilly**

1 liable, except for an act or omission that constitutes gross negligence or recklessness  
 2 or intentional misconduct, for the injury to or the death of a person or for damage to an  
 3 aircraft, resulting from the use or attempted use of the runway, airfield, or landing area  
 4 to take off, land, park, or operate an aircraft while the runway, airfield, or landing  
 5 area [IS]

6 (1) is marked as closed by placement of a large "X" on the runway, in  
 7 accordance with Federal Aviation Administration guidelines [THAT IS READILY  
 8 VISIBLE FROM THE AIR]; and

9 (2) if listed or chartered, is designated as closed in the appropriate  
 10 aeronautical charts and publications published by the Federal Aviation Administration.

11 \* Sec. 2. AS 09.65.093 is amended by adding a new subsection to read:

12 (c) The immunity from civil liability under (a) of this section does not limit  
 13 the liability of an owner or operator of an aircraft runway, airfield, or landing area to a  
 14 provider of flight services and its passengers under contract with the owner or  
 15 operator.

The Amendment said "and" but  
 sponsor wants it to say "or."  
 Are you ok w/ that change  
 now for the JUD CS?  
 (If not, they'll have to do  
 floor A. or something.)

Please let me know :)  
 Thanks,  
 Vanessa

# ALASKA STATE LEGISLATURE

Rep. Lesil McGuire, Chair  
Rep. Tom Anderson, Vice-Chair  
Rep. Jim Holm  
Rep. Dan Ogg  
Rep. Ralph Samuels  
Rep. Les Gara  
Rep. Max Gruenberg



State Capitol, Room 120  
Juneau, AK 99801-1182  
(907) 465-4990  
Fax (907) 465-6592

## House Judiciary Committee

### Memorandum

**To:** Don Bullock, Leg. Legal  
**From:** Vanessa Tondini, Committee Aide  
House Judiciary Committee  
**Date:** March <sup>31</sup>25, 2004  
**Re:** CS Request

---

Please create a final draft House Judiciary Committee Substitute for work order # 23-LS1745\D, HB 474, incorporating the attached amendment (23-LS1745\D.1 as amended). The bill was passed out of committee today.

If you have any questions, please call me at 4990. Thank you!

The information attached to this memo is **CONFIDENTIAL** an/or privileged. It is intended to be reviewed initially by only the individual named above. If the reader of this Memorandum is not the intended recipient or a representative of the intended recipient, you are hereby notified that any review, dissemination, or copying of the information contained herein is prohibited. If you have received this in error, please immediately notify the sender by telephone and return this to the sender at the above address.

~~AMENDMENT #1~~  
AMENDMENT #2 - PASSED

OFFERED IN THE HOUSE

BY REPRESENTATIVE HOLM

TO: CSHB 474( ), Draft Version "D"

GRUENBERG

1 Page 1, line 6:

2 Delete "A [NATURAL]"

3 Insert "Except as provided in (c) of this section, a [A NATURAL]"

4

5 Page 2, following line 9:

6 Insert a new bill section to read:

7 "\* Sec. 2. AS 09.65.093 is amended by adding a new subsection to read:

*limit the liability of*

8 (c) The immunity from civil liability under (a) of this section does not apply to

9 an owner or operator of an aircraft runway, airfield, or landing area with respect to the

10 provider of flight services, *and its passengers* under contract with the owner or operator."

23-LS1745VD  
Bullock  
3/23/04

**CS FOR HOUSE BILL NO. 474( )**  
**IN THE LEGISLATURE OF THE STATE OF ALASKA**  
**TWENTY-THIRD LEGISLATURE - SECOND SESSION**

**BY**

**Offered:**  
**Referred:**

**Sponsor(s): REPRESENTATIVES HOLM, McGuire**

**A BILL**  
**FOR AN ACT ENTITLED**

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3 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 \* Section 1. AS 09.65.093 is amended to read:

5           **Sec. 09.65.093. Civil liability relating to aircraft runways, airfields, and**  
6 **landing areas. (a) A [NATURAL] person who without compensation constructs,**  
7 **maintains, or repairs an aircraft runway, airfield, or landing area may not be held**  
8 **civilly liable, except for an act or omission that constitutes gross negligence or**  
9 **recklessness or intentional misconduct, for the injury to or death of a person or for**  
10 **damage to an aircraft, resulting from the use of the runway, airfield, or landing area to**  
11 **take off, land, park, or operate an aircraft.**

12           (b) A [NATURAL] person who is the owner or operator of an aircraft runway,  
13 airfield, or landing area [THAT IS LOCATED ON PRIVATE LAND] is not civilly  
14 liable, except for an act or omission that constitutes gross negligence or recklessness

1 or intentional misconduct, for the injury to or the death of a person or for damage to an  
2 aircraft, resulting from the use or attempted use of the runway, airfield, or landing area  
3 to take off, land, park, or operate an aircraft while the runway, airfield, or landing  
4 area [IS]

5 (1) is marked as closed by placement of a large "X" on the runway, in  
6 accordance with Federal Aviation Administration guidelines [THAT IS READILY  
7 VISIBLE FROM THE AIR]; and

8 (2) if listed or charted, is designated as closed in the appropriate  
9 aeronautical charts and publications published by the Federal Aviation Administration.

AMENDMENT #1 - WITHDRAWN

OFFERED IN THE HOUSE

BY REPRESENTATIVE HOLM

TO: CSHB 474( ), Draft Version "D"

1 Page 1, line 6:

2 Delete "A [NATURAL]"

3 Insert "Except as provided in (c) of this section. a [A NATURAL]"

4

5 Page 2, following line 9:

6 Insert a new bill section to read:

7 "\*\* Sec. 2. AS 09.65.093 is amended by adding a new subsection to read:

8 (c) The immunity from liability under (a) of this section does not apply to  
9 an owner or operator of an aircraft, runway, airfield, or landing area with respect to the  
10 provider of flight services under contract with the owner or operator."

HB 474 ~~Rescinded~~  
A#1 by Rep. Gara - ~~PASSEI~~

P.1, L.13  
After "landing area"  
Insert "described in (a)"

## Overview

### Part 139 Airport Certification

## What is Part 139 Certification?

14 CFR Part 139 requires the FAA to issue airport operating certificates to airports that—

1. Serve scheduled and unscheduled air carrier aircraft with more than 30 seats;
2. Server scheduled air carrier operations in aircraft with more than 9 seats but less than 31 seats; and
3. The FAA Administrator requires to have a certificate.

This Part does not apply to airports at which air carrier passenger operations are conducted only by reason of the airport being designated as an alternate airport.

Airport Operating Certificates serve to ensure safety in air transportation. To obtain a certificate, an airport must agree to certain operational and safety standards and provide for such things as firefighting and rescue equipment. These requirements vary depending on the size of the airport and the type of flights available. The regulation, however, does allow the FAA to issue certain exemptions to airports that serve few passengers annually and for which some requirements might create a financial hardship.

**For more information on recent changes made to 14 CFR Part 139, go to New Federal Airport Certification Requirements.**

## Basic Phases of a Part 139 Inspection

To ensure that airports with Airport Operating Certificates are meeting the requirements of Part 139, approximately 35 FAA Airport Certification Safety Inspectors conduct certification inspections. These inspections typically occur annually, but the FAA can also make unannounced inspections. Certification inspections generally include the following steps:

- **Pre-Inspection review of office airport files and airport certification manual.**
- **In-briefing with airport management.** Organize inspection time schedule, meet with different airport personnel.
- **Administrative inspection of airport files, paperwork, etc.** Also includes the updating of the Airport Master Record (FAA Form 5010) and review of the Airport Certification Manual/Specifications (ACM/ACS), Notices to Airmen (NOTAM), airfield self inspection forms, etc.
- **Movement area inspection.** Check the approach slopes of each runway end; inspect movement areas, in order to ascertain condition of pavement, markings, lighting, signs, abutting shoulders, and safety areas; observe ground vehicle operations; ensure the public is protected against inadvertent entry and jet or propeller blast; check for the presence of any wildlife; check the traffic and wind direction indicators.
- **Aircraft rescue and fire fighting inspection.** Conduct a timed-response drill; review aircraft rescue and firefighting personnel training records, including annual live-<sup>...</sup> emergency medical care training; check equipment and prot availability.
- **Fueling facilities inspection.** Inspection of fuel farm and m documentation of their quarterly inspections of the fueling fa fueling agent concerning completion of fire safety training.
- **Night inspection.** Evaluate runway/taxiway and apron lightir beacon, wind core, lighting, and obstruction lighting for comp night inspection is conducted if air carrier operations are conc airport at night or the airport has an instrument approach.
- **Post inspection briefing with airport management.** Discuss violations and/or discrepancies if any are found; agree on a re

VANESSA:

CAN YOU ADD THESE OR  
PASS OUT TO THE COMMITTEE  
REGARDING HB 474.

IT ANSWERS THE ~~QUESTION~~  
CONTRACT AIR CARRIERS LANDING  
ON COMPANY STRIPS, QUESTION  
PART (A)

TODD

Airport Certification Status List

3/29/2004

Note: Airport classifications may change - for more information contact your FAA Regional Airports Office

State	Airport Name	Associated City	Airport Ident.	Date of Reissued /New Part 139 Certificate	New Part 139 Classification	ARFF Index
Alabama	Anniston Metro	Anniston	ANB		Class IV	
Alabama	Birmingham Int'l	Birmingham	BHM		Class I	
Alabama	Dannelly Field	Montgomery	MGM		Class I	
Alabama	Dothan	Dothan	DHN		Class I	
Alabama	Huntsville Int'l	Huntsville	HSV		Class I	
Alabama	Mobile Downtown	Mobile	BFM		Class II	
Alabama	Mobile Regional	Mobile	MOB		Class I	
Alabama	Northwest Alabam Regional	Muscle Shoals	MSL		Class I	
Alabama	Talladega Munic.	Talladega	ASN		Class IV	
Alabama	Tuscaloosa Munic	Tuscaloosa	TCL		Class IV	
Alaska	Anchorage Int'l	Anchorage	ANC		Class I	
Alaska	Bethel	Bethel	BET		Class I	
Alaska	Cold Bay	Cold Bay	CDB		Class I	
Alaska	Deadhorse	Deadhorse	SCC		Class I	
Alaska	Dillingham	Dillingham	DLG		Class I	
Alaska	Fairbanks Int'l	Fairbanks	FAI		Class I	
Alaska	Five Mile	Five Mile	FVM		Class IV	
Alaska	Galbraith Lake	Galbraith Lake	GBH		Class IV	
Alaska	Gustavus	Gustavus	GST		Class I	
Alaska	Homer	Homer	HOM		Class I	
Alaska	Iliamna	Iliamna	ILI		Class I	
Alaska	Juneau Int'l	Juneau	JNU		Class I	
Alaska	Kenai Munic	Kenai	ENA		Class I	
Alaska	Ketchikan Int'l	Ketchikan	KTN		Class I	
Alaska	King Salmon	King Salmon	AKN		Class I	
Alaska	Kodiak	Kodiak	ADQ		Class I	
Alaska	Merle K (Mudhole) Smith	Cordova	CDV		Class I	
Alaska	Nome	Nome	OME		Class I	
Alaska	Petersburg James Johnson	Petersburg	PSG		Class I	
Alaska	Port Heiden	Port Heiden	PTH		Class I	

Airport Certification Status List

3/29/2004

<u>Alaska</u>	<u>Prospect Creek</u>	Prospect Creek	PPC	Class IV
Alaska	Ralph Wien Memorial	Kotzebue	OTZ	Class I
<u>Alaska</u>	<u>Red Dog</u>	Red Dog	AED	Class IV
Alaska	Sand Point	Sand Point	SDP	Class I
Alaska	Sitka Rocky Gutierrez	Sitka	SIT	Class I
Alaska	St Paul Island	St Paul Island	SNP	Class I
Alaska	Ugnu-Kuparuk	Kuparuk	UBW	Class IV
Alaska	Unalaska	Unalaska	DUT	Class I
Alaska	Valdez	Valdez	VDZ	Class I
Alaska	Wiley Post-Will Rogers Mem	Barrow	BRW	Class I
Alaska	Wrangell	Wrangell	WRG	Class I
Alaska	Yankutat	Yankutat	YAK	Class I
<del>American Samoa</del>	<del>Fitiuta</del>	<del>Fitiuta</del>	<del>FAQ</del>	<del>Class III</del>
<del>American Samoa</del>	<del>Ofu</del>	<del>Ofu</del>	<del>Z08</del>	<del>Class III</del>
<del>American Samoa</del>	<del>Pago Pago Int'l</del>	<del>Pago Pago</del>	<del>PPG</del>	<del>Class I</del>
<del>Arizona</del>	<del>Ernest Love Field</del>	<del>Prescott</del>	<del>PRC</del>	<del>Class II</del>
<del>Arizona</del>	<del>Flagstaff Pulliam</del>	<del>Flagstaff</del>	<del>FLG</del>	<del>Class I</del>
<del>Arizona</del>	<del>Grand Canyon National Park</del>	<del>Grand Canyon</del>	<del>GCN</del>	<del>Class I</del>
<del>Arizona</del>	<del>Kingman</del>	<del>Kingman</del>	<del>IGM</del>	<del>Class II</del>
<del>Arizona</del>	<del>Lake Havasu City</del>	<del>Lake Havasu City</del>	<del>HII</del>	<del>Class III</del>
<del>Arizona</del>	<del>Laughlin/Bullhead Int'l</del>	<del>Bullhead City</del>	<del>IFP</del>	<del>Class I</del>
<del>Arizona</del>	<del>Page Munic.</del>	<del>Page</del>	<del>PGA</del>	<del>Class II</del>
<del>Arizona</del>	<del>Phoenix Sky Harbor Int'l</del>	<del>Phoenix</del>	<del>PHX</del>	<del>Class I</del>
<del>Arizona</del>	<del>Pinal Airpark</del>	<del>Marana</del>	<del>MZJ</del>	<del>Class IV</del>
<del>Arizona</del>	<del>Show Low Munic.</del>	<del>Show Low</del>	<del>SOW</del>	<del>Class III</del>
<del>Arizona</del>	<del>Tucson Int'l</del>	<del>Tucson</del>	<del>TUS</del>	<del>Class I</del>
<del>Arizona</del>	<del>Williams Gateway</del>	<del>Phoenix</del>	<del>IWA</del>	<del>Class II</del>
<del>Arkansas</del>	<del>Adams Field</del>	<del>Little Rock</del>	<del>LIT</del>	<del>Class I</del>
<del>Arkansas</del>	<del>Arkansas Int'l</del>	<del>Blytheville</del>	<del>BYH</del>	<del>Class II</del>
<del>Arkansas</del>	<del>Baxter Co. Reg.</del>	<del>Mountain Home</del>	<del>BPK</del>	<del>Class III</del>
<del>Arkansas</del>	<del>Boone Co.</del>	<del>Harrison</del>	<del>HRO</del>	<del>Class III</del>
<del>Arkansas</del>	<del>Drake Field</del>	<del>Fayetteville</del>	<del>FYV</del>	<del>Class I</del>
<del>Arkansas</del>	<del>Fort Smith Reg</del>	<del>Fort Smith</del>	<del>FSM</del>	<del>Class I</del>
<del>Arkansas</del>	<del>Jonesboro Munic.</del>	<del>Jonesboro</del>	<del>JBR</del>	<del>Class III</del>

To the Committee: The following are changes suggested by the Aircraft Owners and Pilots Association (AOPA) to ensure clarity and make the statute more comprehensive. This is included for your consideration.

BILL ID: HB 474

00 HOUSE BILL NO. 474

01 "An Act relating to civil liability associated with aircraft runways, airfields, and landing  
02 areas."

03 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

04 \* Section 1. AS 09.65.093 is amended to read:

05 Sec. 09.65.093. Civil liability relating to aircraft runways, airfields, and  
06 landing areas. (a) A [NATURAL] person who without compensation maintains or  
07 repairs an aircraft runway, airfield, or landing area may not be held civilly liable,  
08 except for an act or omission that constitutes gross negligence or recklessness or  
09 intentional misconduct, for the injury to or death of a person or for damage to an  
10 aircraft, resulting from the use of the runway, airfield, or landing area to take off, land,  
11 or operate an aircraft.

12 (b) A [NATURAL] person who is the owner or operator of an aircraft runway,  
13 airfield, or landing area ~~that is located on private land~~ is not civilly liable, except for  
14 an act or omission that constitutes gross negligence or recklessness or intentional  
01 misconduct, for the injury to or the death of a person or for damage to an aircraft,  
02 resulting from the use or attempted use of the runway, airfield, or landing area to take  
03 off, land, or operate an aircraft while the runway, airfield, or landing area is

04 (1) marked as closed by placement of a large "X" on the runway, in accordance with FAA  
guidelines that is readily visible

05 ~~from the air; and~~

06 (2) if listed and/or charted, change the designation to listed as closed in the appropriate aeronautical  
charts and

07 publications published by the Federal Aviation Administration.

---

Changes requested in HB 474:

Section (1) (b) line 13: ~~delete "that is located on private land."~~

Limits on civil liability when an airport owner or operator closes an airstrip should cover public as well as private land. Limiting the protection to owners/operators on private land only discourages operation of airstrips on public land, which is still the majority of the state of Alaska. Without protection, which this statute provides, the burden to develop and maintain airstrips for access to remote areas falls exclusively on state government, which doesn't have the resources to develop or maintain these assets.

Section (1) (b) line 04, replace "~~that is readily visible from the air~~" with "on the runway, in accordance with FAA guidelines."

As presently worded, the definition on how to mark a closed runway is vague, and could be confused with ground targets used by aerial survey firms. Instead of putting the state in the business of defining

how to mark runways, it would be cleaner to reference the FAA guidelines, which are consistent across all states.

Section (1) (b) line 06, replace "*listed as*" with "*if listed and/or charted, change the designation to*"

Not all airports are charted. By changing the wording in this section, it requires the owner/operator to change the designation, if it is published in the aviation publication and charts, in addition to marking the runway. But if it has not been charted, the markings alone will suffice.

## HB474

### Sectional Analysis

#### **Section 1;**

This is the only section. It leaves the statute intact and makes some specific changes for clarity and to be more comprehensive. Most importantly, it removes the word "natural" from both clauses. This deletion has the effect of broadening the protections to the legal definition of "person" as defined in AS 01.10.060 (8).

AS 01.10.060 (8) reads: "person" includes a corporation, company, partnership, firm, association, organization, business trust, or society, as well as a natural person;

# Alaska State Legislature

Representative Jim Holm  
District 9

**Session**

Capitol Building, Room 110  
Juneau, AK 99801  
Phone: (907) 465-3466  
Fax: (907) 465-2937

**Interim**

119 N. Cushman St.  
Fairbanks, AK 99701  
Phone: (907) 456-7423  
Fax: (907) 451-9293

---

DATE: March 1, 2004

TO: Representative Lesil McGuire, Chair  
House Judiciary Committee

FROM: Representative Jim Holm

RE: HB 474

Please schedule HB 474, Liability for Voluntary Airstrip Maintenance, for hearing in the House Judiciary Committee at your earliest convenience.

Back-up information is attached.

Thank you very much for your help with this bill.

# STATE OF ALASKA



*Interim:*

119 North Cushman, Rm. 205  
Fairbanks, Alaska 99701  
(907) 456-7423  
Fax: (907) 451-9293

*Session:*

State Capitol Building  
Juneau, Alaska 99801  
(907) 465-3466  
Fax: (907) 465-2937

## REPRESENTATIVE JIM HOLM DISTRICT 9

### Sponsor Statement for HB474

HB474 will remove the word "natural" from state statute to offer equal protection to all "persons". AS 09.65.093 is treating owners of private airstrips unfairly by granting liability protections to certain volunteers over others. Our current statute offers *some* protection to owners or users of private airstrips who spend their own time, effort and money on upkeep. At the same time, others who spend the same personal resources on their strips are not protected from liability.

Our past legislature has seen the justice in giving some statutory liability protection to people who freely or out of necessity maintain public or personal airstrips without being compensated. AS09.65.093 roughly states that if a "natural person", without being paid, repairs or maintains an airstrip, other users cannot hold that "natural" person liable for civil damages. There is an exception for extremely irresponsible conduct and private owners are required to take the extra steps of notifying the public with markings and listings in aeronautical publications. The reasoning goes that if people are nice enough to do this free maintenance then they should not be punished for the kind act. These very same protections are currently withheld from a "person" legally defined in AS 01.10.060 (8): "person" includes a corporation, company, partnership, firm, association, organization, business trust, or society, as well as a natural person.

Where we feel this protection is unjustly withheld is at the point when an organization performs the same service without pay. If a group, corporation or other organization repairs or maintains an airstrip without being paid, they *are* liable for users of that strip. It seems unreasonable to say that an individual can perform this service for free, but a group cannot

do the same without extra liability. It also seems to be poor policy to discourage the organized public from offering free services to their communities. These are services which, otherwise, may eventually have to be performed by the state. If not, we would allow airstrips to fall into general disrepair. Allowing this to happen would create an even more dangerous landing situation around the State.

Please join me in making this repair to our statute.

# Alaska State Legislature

Representative Jim Holm

District 9

**Session**

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## HB474

### Sectional Analysis

**Section 1;**

This is the only section. It leaves the statute fully intact and unchanged, but removes the word "natural" from both clauses. This deletion has the effect of broadening the protection to the legal definition of "person" as defined in AS 01.10.060 (8).

AS 01.10.060 (8) reads: "person" includes a corporation, company, partnership, firm, association, organization, business trust, or society, as well as a natural person;



AIRCRAFT OWNERS AND PILOTS ASSOCIATION

March 2, 2004

Representative Jim Holm  
State Capitol, Room 110  
Juneau, AK 99801-1182

Dear Representative Holm,

The Aircraft Owners and Pilots Association (AOPA) is a membership association consisting of over 400,000 pilots and aircraft owners nationwide, 4,600 of whom reside in the state of Alaska. AOPA is committed to ensuring the continued viability, growth, and development of aviation and airports in Alaska and the United States.

The Aircraft Owners and Pilots Association strongly supports House Bill 474, regarding civil liability relating to runways, airfields, and landing areas. This bill will help protect airport owners and operators that devote their time and resources to operate and maintain airstrips and landing areas in Alaska.

We anticipate that this bill will help protect the operation of these vital components of our transportation infrastructure.

On behalf of the 4,600 AOPA members in Alaska, thank you for sponsoring this bill.

Sincerely,

Tom George  
Alaska Regional Representative

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TOM GEORGE  
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To the Committee: The following are changes suggested by the Aircraft Owners and Pilots Association (AOPA) to ensure clarity and make the statute more comprehensive. This is included for your consideration.

BILL ID: HB 474

00 HOUSE BILL NO. 474

01 "An Act relating to civil liability associated with aircraft runways, airfields, and landing  
02 areas."

03 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

04 \* Section 1. AS 09.65.093 is amended to read:

05 Sec. 09.65.093. Civil liability relating to aircraft runways, airfields, and  
06 landing areas. (a) A [NATURAL] person who without compensation maintains or  
07 repairs an aircraft runway, airfield, or landing area may not be held civilly liable,  
08 except for an act or omission that constitutes gross negligence or recklessness or  
09 intentional misconduct, for the injury to or death of a person or for damage to an  
10 aircraft, resulting from the use of the runway, airfield, or landing area to take off, land,  
11 or operate an aircraft.

12 (b) A [NATURAL] person who is the owner or operator of an aircraft runway,  
13 airfield, or landing area ~~that is located on private land~~ is not civilly liable, except for  
14 an act or omission that constitutes gross negligence or recklessness or intentional  
01 misconduct, for the injury to or the death of a person or for damage to an aircraft,  
02 resulting from the use or attempted use of the runway, airfield, or landing area to take  
03 off, land, or operate an aircraft while the runway, airfield, or landing area is

04 (1) marked as closed by placement of a large "X" on the runway, in accordance with FAA  
guidelines that is readily visible

05 ~~from the air;~~ and

06 (2) if listed and/or charted, change the designation to listed as closed in the appropriate aeronautical  
07 charts and

07 publications published by the Federal Aviation Administration.

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Changes requested in HB 474:

Section (1) (b) line 13: ~~delete "that is located on private land."~~

Limits on civil liability when an airport owner or operator closes an airstrip should cover public as well as private land. Limiting the protection to owners/operators on private land only discourages operation of airstrips on public land, which is still the majority of the state of Alaska. Without protection, which this statute provides, the burden to develop and maintain airstrips for access to remote areas falls exclusively on state government, which doesn't have the resources to develop or maintain these assets.

Section (1) (b) line 04, replace "~~that is readily visible from the air~~" with "on the runway, in accordance with FAA guidelines."

As presently worded, the definition on how to mark a closed runway is vague, and could be confused with ground targets used by aerial survey firms. Instead of putting the state in the business of defining

how to mark runways, it would be cleaner to reference the FAA guidelines, which are consistent across all states.

Section (1) (b) line 06, replace "*listed as*" with "*if listed and/or charted, change the designation to*"

Not all airports are charted. By changing the wording in this section, it requires the owner/operator to change the designation, if it is published in the aviation publication and charts, in addition to marking the runway. But if it has not been charted, the markings alone will suffice.