

SB

139

Out of Session:
Legislative Information Office
P.O. Box 1630
Nome, AK 99762-1630
(907) 443-5555
(907) 443-2162 (Fax)

Alaska State Legislature



In Session:
State Capitol
Juneau, AK 99801-1182
(800) 597-3707
(907) 465-3707
(907) 465-4821 (Fax)

SENATOR DONALD C. OLSON

DISTRICT T

Alakanuk
Ambler
Anaktuvuk Pass
Atkasuk
Barrow
Brovig Mission
Browerville
Buckland
Chevak
Deering
Diomedes
Elim
Emmonak
Gambell
Golovin
Hooper Bay
Kaktovik
Kiana
Kivalina
Kobuk
Kotlik
Kotzebue
Koyuk
Mountain Village
Noatak
Nome
Noorvik
Nuiqsut
Nunam Iqoq
Pilot Station
Pitka's Point
Point Hope
Point Lay
 Savoonga
Scammon Bay
Selawik
Shaktolik
Shishmaref
Shungnak
St. Mary's
St. Michael
Stebbins
Teller
Unalakleet
Wainwright
Wales
White Mountain

May 3, 2007

MEMORANDUM

To: Representative Johansen, Chair
House Transportation Committee

From: Senator Olson

Re: Request for a committee hearing for SB 139, liability for airfields and air strips .

I would appreciate the scheduling of a House Transportation Committee hearing of SB 139 at your earliest convenience. Attached is a sponsor statement and support documentation. If you need additional information, please contact me or Dave Gray in my office.

Thank you for your attention to this request.

Out of Session:
Legislative Information Office
P.O. Box 1830
Nome, AK 99762-1830
(907) 443-5555
(907) 443-2162 (Fax)

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SENATOR DONALD C. OLSON

DISTRICT T

SPONSOR STATEMENT

SSSB 139, Liability for Airports and Airstrips

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SSSB 139 is introduced to correct changes to the limited liability statutes for runways, airfields, and landing areas enacted by Chapter 39, SLA 04 that inadvertently negated the purpose and intent of that legislation. The original liability limitation applied to airstrips and landing areas on public and private land that are both marked by placement of a large "X" on the ground and are listed as closed in FAA charts and publications.

In the process of enacting Chapter 39, SLA 04, the wording of AS 09.65.093 (b) created confusion as to the requirements an airport owner or operator had to meet to be exempt from liability during time when an airstrip was not actively in use. This was neither the intent of the legislation's sponsors nor the 37 representatives and 20 senators that voted for its enactment.

SSSB 139 resolves the impairment of chapter 39 by deleting the (b) subsection. In this way, SSSB 139 preserves the original intention of AS 09.65.093 to limit the liability for those Alaskans who own, operate and maintain airfields and landing strips on private and public lands. These facilities are often essential for transportation to vast areas of the state that lack public access.

The bill does not change liability protections against acts of gross negligence, recklessness or intentional misconduct.



April 17, 2007

Senator Don Olson
State Capitol, Room 514
Juneau, AK 99801-1182

Dear Senator Olson:

Thanks for taking up the issue of civil liability on Alaskan airports. The wording of the current statute is convoluted, and has caused considerable confusion among our members who are operating airstrips either on private or public land.

After looking this over, I would recommend eliminating Section 1 (b) of the statute, which seems to be the source of the confusion. This should clarify the intent, which is to provide protection from civil liability for owners of public and private airstrips or others who work to maintain or improve them.

Thank you again for your support of general aviation in Alaska. If you have any other questions or concerns, please do not hesitate to contact me.

Sincerely,

A handwritten signature in cursive script that reads "Tom George".

Tom George
Alaska Regional Representative

TOM GEORGE
ALASKA REGIONAL REPRESENTATIVE
PERSONAL ADDRESS: P.O. Box 83750 FAIRBANKS, AK 99708
907-388-9955 (PHONE) 907-455-9001 (FAX)
E-MAIL: tom.george@aopa.org

(b) This section does not affect the right of a person to receive benefits to which the person would otherwise be entitled under the workers' compensation law or under any pension law, nor does it affect entitlement to any other benefits or compensation authorized by state or federal law. (§ 1 ch 4 SLA 1994)

Sec. 09.65.092. Civil liability for voluntary aircraft safety inspection. An aircraft or power plant technician or mechanic certified by the Federal Aviation Administration who participates without compensation in a voluntary aircraft safety inspection program is not liable for civil damage resulting from an act or omission arising out of an aircraft safety inspection in that program unless the act or omission constitutes gross negligence or reckless or intentional misconduct. (§ 1 ch 3 SLA 1982)

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

(b) A person who is the owner or operator of an aircraft runway, airfield, or landing area is not civilly liable, except for an act or omission that constitutes gross negligence or recklessness or intentional misconduct, for the injury to or the death of a person or for damage to an aircraft, resulting from the use or attempted use of the runway, airfield, or landing area to take off, land, park, or operate an aircraft while the runway, airfield, or landing area is

(1) marked as closed by placement of a large "X" on the runway, in accordance with Federal Aviation Administration guidelines; and

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

(c) The immunity from civil liability under (a) of this section does not limit the liability of an owner or operator of an aircraft runway, airfield, or landing area to a provider of flight services or its passengers under contract with the owner or operator. (§ 12 ch 56 SLA 2001; am §§ 1, 2 ch 39 SLA 2004)

Effect of amendments. — The 2004 amendment, effective Sept. 2, 2004, in subsection (a), substituted "Except as provided in (c) of this section, a person" for "A natural person" at the beginning and inserted "constructs" and "park"; in subsection (b), deleted "natural" preceding "person" and "that is located on private land" near the beginning of the introductory language and inserted "park" near the end of that

language, substituted "in the runway, in accordance with federal Aviation Administration guidelines" or "that is readily visible from the air" in paragraph (1), and inserted "or charted, and designated" in paragraph (2); and added subsection (c).

Editor's notes. — Section 16, ch. 36, SLA 2001 provides that this section "applies to a civil action that accrues on or after September 27, 2001."

Sec. 09.65.095. Liability for administration of blood test. (a) A civil or criminal action arising out of battery may not be brought against a health care provider for the act of taking a blood sample if the sample is taken

(1) at the request of a police officer under the circumstances specified in AS 28.35.035 or when the arresting officer has a search warrant or court order authorizing the taking of the blood sample; and

(2) without the use of excessive or unreasonable force.

(b) In this section,

(1) "health care provider" means a nurse licensed under AS 08.68, a physician licensed under AS 08.64, and a person certified by a hospital as competent to take blood samples;

(2) "hospital" means a hospital as defined in AS 47.32.900, including a governmentally owned or operated hospital.