

Legislative Statement for Airport Hazard Zoning

Presented by
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Introduction

- Describe Bureau of Aviation functions/responsibilities
- Provide overall background on aviation
 - Number of public use airports – commercial service and general aviation (137)
 - Number of private use airports (357)
 - The total economic impact of Pennsylvania Aviation is estimated at over 12 billion dollars

Formal statement on Airport Hazard Zoning

Airport Hazard Zoning is necessary for all public use airports and has been created to provide a safe transportation system. Safety is of paramount concern when considering the operation of an airport. It relates not only to pilots and aircraft, but also to persons and property in each airport's environs. In 1984, the Pennsylvania legislature passed Act 164, Pennsylvania Laws Relating to Aviation of which Chapter 59, Subchapter B, is the "Airport Zoning Act". As its general rule, it states:

“In order to prevent the **creation or establishment of airport hazards**, every municipality having an airport hazard area within its territorial limits shall adopt, administer and enforce, under the police power and in the manner and upon the conditions prescribed in this subchapter and in applicable zoning laws unless clearly inconsistent with this subchapter, airport zoning regulations for such airport hazard area.”

Airport hazard areas as described in Act 164 are based on Federal Aviation Regulations (FAR), Part 77. Part 77 provides a mechanism whereby the FAA evaluates objects to determine if they are hazards to air navigation. Pennsylvania municipalities falling within the airport's Part 77 surfaces are defined as being in the airport hazard area. Therefore, these municipalities are subject to Act 164 compliance to regulate the **height of objects** around airports in accordance with FAR Part 77.

The state requirement within Chapter 57 of the Aviation Law requires Department **approval** before erecting structures in defined areas around a public airport. It is further noted that at the federal level, **notice** is required by 14 Code of Federal Regulations, Part 77 pursuant to 49 U.S.C., Section 44718. Persons who knowingly and willingly violate notice requirements of State and Federal Law are subject to civil penalties.

Public airports are critical to Pennsylvania's air transportation infrastructure. Airport zoning was established as a requirement of Pennsylvania law for the overall good of the public. Aircraft operators and the flying public expect Pennsylvania to provide for a consistent standard and level of safety at public use airports. Fortunately, safety standards are not dependent on whether a public airport is privately or publicly owned.

In the Commonwealth, the responsibility and authority for the development and enforcement of all types of zoning ordinances rest with local government. This includes Act 164, Airport

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Zoning Act. Amending this law to narrow the requirement to only protect publicly “owned” airports would jeopardize the ability of an airport to comply with federal safety standards (FAR Part 77). These privately owned public use airports are vital to our air transportation system and contribute to our ability to maintain an effective network of interstate commerce.

Beyond federal regulation, state law and general public safety, protecting public use airports within the Commonwealth, regardless of who owns them, makes sense from an economic standpoint. Many businesses make their decision to locate in a particular area on the accessibility to a public airport. Public airports provide dollars to the local economy through jobs either directly or indirectly. Pennsylvania public airport visitors also contribute to the economic health of an area through the purchase goods and services.

As a result, the Department of Transportation would be opposed to the proposed bill as it would have a negative impact on the safety of the air transportation system in Pennsylvania.

As it is currently drafted, this bill would only allow zoning of one privately-owned airport, University Park located in Centre County. All other privately-owned, public use airports would not be protected by the Airport Hazard Zoning Act, Act 164. Airport zoning was established for the overall public good and is based on the federal standards for public use airports. The Federal Aviation Administration does not establish different safety standards for public use airports based on their ownership and the Department believes that the Commonwealth should mirror this standard. In fact, the Federal Aviation Administration requires airports that receive funding to protect their approach surfaces through grant assurances regardless of their ownership. By eliminating privately owned public use airports the ability to protect their approaches could very well jeopardize the federal funding received to improve those facilities.

This bill could very well cause the gradual closure of a number of those privately-owned, public use airports. Significant federal and state investments would be lost as would the ability for the Commonwealth to regulate the safety of its airports. These investments are a prime example of successful public private partnerships. It should be noted there are 62 privately-owned, public use airports in the State which is nearly half of all of public airports in the Commonwealth. While government funding is provided to improve the public use infrastructure of private airports, the costs for the operation and other non-eligible projects are assumed by the owner. Again, these airports are critical to Pennsylvania’s air transportation infrastructure by serving the various roles needed for a well rounded air transportation system.

Finally, I would like to note that Section 5501 of the Aviation Code, 74 Pa. states, “ownership of the space over and above the lands and waters of this Commonwealth is declared to be vested in the owner of the surface beneath, but the ownership extends only so far as is necessary to the enjoyment of the use of the surface without interference and is subject to the right of passage or flight of aircraft.”

Again I would like to stress that Airport Hazard Zoning is a necessary component of a safe transportation system that includes all public use airports. Aircraft operators expect Pennsylvania to provide a consistent standard and level of safety for all those airports that are open to the public. Airport zoning is critical in maintaining Pennsylvania’s low accident rate attributable to objects effecting navigable airspace.