

As Reported by the House Transportation Committee

136th General Assembly

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H. B. No. 333

Representatives Fowler Arthur, Callender

Cosponsors: Representatives Willis, Daniels

To amend sections 4561.01, 4561.021, 4561.05, 1
4561.06, 4561.08, 4561.09, 4561.11, 4561.12, 2
4561.14, 4561.15, 4561.31, 4561.32, 4561.33, 3
4561.34, 4561.341, 4561.35, 4561.36, 4561.37, 4
4561.38, 4561.39, 4561.99, 4563.01, 4563.03, 5
4563.031, 4563.032, 4563.04, 4563.05, 4563.06, 6
4563.07, 4563.08, 4563.09, 4563.10, 4563.11, 7
4563.12, 4563.13, 4563.16, 4563.18, 4563.20, 8
4563.21, and 4906.10; to enact section 4561.40; 9
and to repeal section 4561.30 of the Revised 10
Code to make changes to the laws regarding 11
navigable airspace and to name this act the 12
Airspace Protection Act. 13

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 4561.01, 4561.021, 4561.05, 14
4561.06, 4561.08, 4561.09, 4561.11, 4561.12, 4561.14, 4561.15, 15
4561.31, 4561.32, 4561.33, 4561.34, 4561.341, 4561.35, 4561.36, 16
4561.37, 4561.38, 4561.39, 4561.99, 4563.01, 4563.03, 4563.031, 17
4563.032, 4563.04, 4563.05, 4563.06, 4563.07, 4563.08, 4563.09, 18
4563.10, 4563.11, 4563.12, 4563.13, 4563.16, 4563.18, 4563.20, 19
4563.21, and 4906.10 be amended and section 4561.40 of the 20

Revised Code be enacted to read as follows: 21

Sec. 4561.01. As used in ~~sections 4561.01 to 4561.27 of~~ 22
~~the Revised Code~~this chapter: 23

(A) "Aviation" means transportation by aircraft; operation 24
of aircraft; the establishment, operation, maintenance, repair, 25
and improvement of airports, landing fields, and other air 26
navigation facilities; and all other activities connected 27
therewith or incidental thereto. 28

(B) "Aircraft" means any manned device used or intended 29
for flight in the air. "Aircraft" does not include an ultralight 30
vehicle as defined by 14 C.F.R. part 103. 31

(C) "Airport" means any location either on land or water 32
which is used for the landing and taking off of aircraft, 33
including heliports and seaplane landing sites. "Airport" does 34
not include a federal navigable waterway or a military airport 35
owned by the United States government. 36

(D) "Landing field" means any location either on land or 37
water of such size and nature as to permit the landing or taking 38
off of aircraft with safety, and used for that purpose but not 39
equipped to provide for the shelter, supply, or care of 40
aircraft. 41

(E) "Air navigation facility" means any facility used, 42
available for use, or designed for use in aid of navigation of 43
aircraft, including airports, landing fields, facilities for the 44
servicing of aircraft or for the comfort and accommodation of 45
air travelers, and any structures, mechanisms, lights, beacons, 46
marks, communicating systems, or other instrumentalities or 47
devices used or useful as an aid to the safe taking off, 48
navigation, and landing of aircraft, or to the safe and 49

efficient operation or maintenance of an airport or landing field, and any combination of such facilities. 50
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(F) ~~"Air navigation hazard" means any structure, object of natural growth, or use of land, that obstructs the air space required for the flight of aircraft in landing or taking off at any airport or landing field, or that otherwise is hazardous to such landing or taking off.~~ "Airport sponsor" means the 52
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controlling body of any regional airport authority, port authority, public university or college, county, or municipal corporation, or the owner or private entity that controls a privately owned airport or medical use heliport.

(G) ~~"Air navigation," or "navigation of aircraft," or "navigate aircraft"~~ means the operation of aircraft in the ~~air-space~~ airspace over this state. 61
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(H) ~~"Airperson"~~ "Air crew" means any individual who, as the person in command, or as pilot, mechanic, or member of the crew, engages in the navigation of aircraft. 64
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(I) "Airway" means a route in the ~~air-space~~ airspace over and above the lands or waters of this state, ~~designated by the Ohio aviation board as a route~~ suitable for the navigation of aircraft. 67
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(J) "Person" means any individual, firm, partnership, corporation, company, association, joint stock association, or body politic, and includes any trustee, receiver, assignee, or other similar representative thereof. 71
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(K) "Government agency" means a state agency, state institution of higher education, regional port authority, or any other political subdivision of the state, or the federal government or other states. 75
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(L) "Navigable airspace" means the airspace at and above 79
the minimum flight altitudes, including the airspace needed for 80
safe takeoff and landing. 81

(M) "Obstruction" means any existing or proposed structure 82
or object of natural growth that exceeds the obstruction 83
standards as found in 14 C.F.R. part 77. 84

(N) "Structure" means any permanent or temporary object, 85
including a building, tower, crane, scaffold, smokestack, batch 86
plant, earth formation, stockpile, transmission line, light 87
pole, flagpole, ship mast, traverse way, and mobile object. 88

(O) "Install, erect, construct, establish, or alter" means 89
undertaking any action that affects the natural environment of 90
the site of a structure or object of natural growth, including 91
clearing of land, excavation, or planting. "Install, erect, 92
construct, establish, or alter" does not include surveying 93
changes necessary for temporary use of the site and use in 94
securing geological data, including making necessary borings to 95
ascertain foundation conditions. 96

(P) "Heliport" means the area of land, water, or a 97
structure that is used or intended to be used for the landing 98
and takeoff of helicopters, including any appurtenant buildings 99
and facilities. 100

(Q) "Vertiport" means the identifiable ground or elevated 101
areas, including the facilities thereon, that are designed to be 102
used for the landing and takeoff of rotorcraft, tilt-rotor 103
aircraft, or other powered lift aircraft. 104

(R) "Spaceport" means any facility in the state at which 105
space vehicles may be landed or launched, including all 106
facilities and support infrastructure related to the launch, 107

landing, and payload processing. 108

Sec. 4561.021. There is hereby created in ~~the division of~~ 109
~~multi-modal planning and programs of~~ the department of 110
transportation the office of aviation. The director of 111
transportation shall appoint the administrator of the office of 112
aviation, ~~who shall serve at the pleasure of the director.~~ The 113
administrator of the office of aviation shall be responsible to 114
the director for the organization, direction, and supervision of 115
the work of the office and the exercise of the powers and the 116
performance of the duties assigned to the office. Subject to 117
Chapter 124. of the Revised Code and civil service regulations, 118
the administrator, with the approval of the director, shall 119
select and appoint the necessary employees. The director also 120
may employ experts for assistance in any specific matter at a 121
reasonable rate of compensation. 122

Sec. 4561.05. The department of transportation shall 123
administer Chapter 4561. of the Revised Code. The department may 124
issue and amend orders, create application forms for permits and 125
certificates issued under this chapter, and adopt, modify, and 126
~~promulgate such~~ rescind any reasonable rules as it determines 127
necessary to carry out this chapter. 128

~~The department may issue and amend orders, and make,~~ 129
~~promulgate, and amend, reasonable general and special rules and~~ 130
~~procedure, and establish minimum standards.~~ 131

~~The department may establish safety rules governing air~~ 132
~~navigation hazards, and the location, size, use, and equipment~~ 133
~~of airports and landing areas, and rules governing air marking,~~ 134
~~the use of signs or lights designed to be visible from the air,~~ 135
~~and other air navigation facilities.~~ 136

All rules and amendments thereto, prescribed by the 137
department, shall ~~conform to and coincide~~ be in accordance with, 138
so far as possible, ~~the "Civil Aeronautics Act of 1938," 52-~~ 139
~~Stat. 973, 49 U.S.C. 401, as amended,~~ the federal aviation laws 140
passed by the congress of the United States, and the air 141
commerce regulations issued pursuant thereto. 142

All acts of the department authorized under this section 143
shall be carried on in conformity with Chapter 119. of the 144
Revised Code. 145

Sec. 4561.06. (A) The department of transportation shall 146
encourage the development of aviation and the promotion of 147
aviation education and research within this state as, in its 148
judgment, may best serve the public interest. 149

(B) (1) The department may furnish engineering or other 150
technical counsel and services, with or without charge therefor, 151
to any appropriate government agency or private entity desiring 152
such counsel or services in connection with any question or 153
problem concerning the need for, or the location, construction, 154
maintenance, or operation of airports, landing fields, or other 155
air navigation facilities. 156

(2) The department also may furnish engineering or other 157
technical counsel and services to any appropriate government 158
agency or private entity desiring such counsel or services 159
regarding the federal aviation administration's process under 14 160
C.F.R. part 77. Such counsel and services may include the 161
process for petitioning the federal aviation administration for 162
discretionary review of a determination, revision, or extension 163
of a determination and any public notice and comment process 164
available. 165

(C) The department shall be the official representative of 166
this state in all civil actions, matters, or proceedings 167
pertaining to aviation in which this state is a party or has an 168
interest. 169

(D) (1) The department may investigate, and may cooperate 170
with any other appropriate government agency in the 171
investigation of, any accident occurring in this state in 172
connection with aviation. It may issue an order to preserve, 173
protect, or prevent the removal of any aircraft or air 174
navigation facility involved in an accident being so 175
investigated until the investigation is completed. The chief 176
executive officer or any law enforcement officer of this state 177
or any political subdivision in which an accident occurred shall 178
assist the department in enforcing such an order when called 179
upon to do so. 180

(2) The department, in connection with any investigation 181
it is authorized to conduct, or in connection with any matter it 182
is required to consider and determine, may conduct hearings 183
thereon. All such hearings shall be open to the public. The 184
administrator of the office of aviation or those employees of 185
that office or its agents who are designated to conduct such 186
hearings may administer oaths and affirmations and issue 187
subpoenas for and compel the attendance and testimony of 188
witnesses and the production of papers, books, and documents at 189
the hearings. In case of failure to comply with such a subpoena 190
or refusal to testify, the administrator or the employees of the 191
office of aviation or its agents who are designated to conduct 192
the hearings may invoke the aid of the court of common pleas of 193
the county in which the hearing is being conducted, and the 194
court may order the witness to comply with the requirements of 195
the subpoena or to give testimony concerning the matter in 196

question. Failure to obey any order of the court may be punished 197
as a contempt of the court. 198

(3) Reports of any investigations or hearings, or parts 199
thereof, conducted by the department shall not be admitted in 200
evidence or used for any purpose in any action or proceeding 201
arising out of any matter referred to in the investigation, 202
hearings, or report thereof, except in actions or proceedings 203
instituted by the state or by the department on behalf of the 204
state, nor shall any member of the department or any of its 205
employees be required to testify to any facts ascertained in, or 206
information obtained by reason of, the member's or employee's 207
official capacity, or to testify as an expert witness in any 208
action or proceeding involving or pertaining to aviation to 209
which the state is not a party. Subject to this section, the 210
department may make available to appropriate agencies of 211
government any information and material developed in the course 212
of its investigations and hearings. 213

(E) The department shall report to the appropriate agency 214
of the United States all cases that come to its attention of 215
persons navigating aircraft without a valid aviator's 216
certificate, or in which an aircraft is navigated without a 217
valid air-worthiness certificate in probable violation of the 218
laws of the United States requiring such certificates, and it 219
also shall report to the proper governmental agency any probable 220
infringement or violation of laws, rules, and regulations 221
pertaining to aviation that come to its attention. 222

(F) The department may prepare, adopt, and subsequently 223
revise a plan showing the locations and types of airports, 224
landing fields, and other air navigation facilities within this 225
state; ~~it also may prepare another plan of a system of airways~~ 226

~~within this state, the establishment, maintenance, and use of~~ 227
~~which will, in its judgment, serve the development of~~ 228
~~transportation by aircraft within this state in the best~~ 229
~~interests of the public.~~ It may publish plans and pertinent 230
information as the public interest requires. 231

(G) The department periodically may prepare, publish, and 232
distribute such maps, charts, or other information as the public 233
interest requires, showing the location of and containing a 234
description of all airports, landing fields, and other air 235
navigation facilities then in operation in this state, together 236
with information concerning the manner in which, and the terms 237
upon which, those facilities may be used, and showing all 238
airways then in use, or recommended for use, within this state, 239
together with information concerning the manner in which the 240
facilities should be used. 241

Sec. 4561.08. (A) As used in this section and section 242
4561.09 of the Revised Code: 243

(1) "Airport activities" means the acquisition, 244
establishment, construction, enlargement, improvement, 245
equipment, protection of navigable airspace, or operation of 246
airports, heliports, vertiports, spaceports, landing fields, and 247
other air navigation facilities. 248

(2) "Local authority" means a regional airport authority, 249
port authority, public university or college airport, county, or 250
municipal corporation. 251

(B) The department of transportation may cooperate with 252
any ~~government agency, local authority in the acquisition,~~ 253
~~establishment, construction, enlargement, improvement,~~ 254
~~equipment, or operation of airports, landing fields, and other~~ 255

~~air navigation facilities conducting airport activities~~ in this 256
state, and may comply with the laws of the United States and any 257
regulations made thereunder with respect to the expenditure of 258
federal funds for or in connection with such ~~airports, landing-~~ 259
~~fields, and other air navigation facilities~~activities. 260

The department may accept, receive, and give receipt for 261
federal funds, upon such terms as are prescribed by the laws of 262
the United States and any regulations made thereunder, on behalf 263
of the state, and may treat similarly, for the state or as agent 264
for any ~~regional airport authority, county, or municipal-~~ 265
~~corporation~~ local authority thereof, other funds, public or 266
private, for the ~~acquisition, establishment, construction,~~ 267
~~enlargement, improvement, equipment, or operation of airports,~~ 268
~~landing fields, and other air navigation facilities~~conducting 269
airport activities, whether such work is to be done ~~severally~~ by 270
the state ~~or by,~~ a political subdivision thereof ~~or by a-~~ 271
~~regional airport authority, or by the state and a regional-~~ 272
~~airport authority or one or more such political subdivisions-~~ 273
~~jointly, or by any two or more such political subdivisions-~~ 274
~~jointly, or by a regional airport authority and any one or more-~~ 275
~~such political or subdivisions jointly~~of the state, a local 276
authority or authorities, or some combination thereof. The 277
department may also act as agent of any ~~regional airport-~~ 278
~~authority, county, or municipal corporation~~ local authority of 279
the state in any other matter connected with ~~the acquisition,~~ 280
~~establishment, construction, enlargement, improvement,~~ 281
~~equipment, or operation of airports, landing fields, and other-~~ 282
~~air navigation facilities~~conducting airport activities. In the 283
discharge of its duties as such agent, the department may use 284
all its powers in the same manner as when acting for and ~~in~~ on 285
behalf of the state. 286

(C) The department may approve or disapprove all 287
contracts, grants, and agreements for ~~the acquisition,~~ 288
~~establishment, construction, enlargement, improvement,~~ 289
~~equipment, or operation of airports, landing fields, and other~~ 290
~~air navigation facilities~~ conducting airport activities insofar 291
as its rules require. 292

(D) The department may advise and cooperate with any 293
regional airport authority or political subdivision of this 294
state or of any other state, when it is acting jointly with a 295
regional airport authority or subdivision of this state, in all 296
matters pertaining to ~~the location, acquisition, establishment,~~ 297
~~construction, enlargement, improvement, equipment, or operation~~ 298
~~of airports, landing fields, and other air navigation~~ 299
~~facilities~~ airport activities. 300

(E) All federal money accepted by the department pursuant 301
to ~~sections 4561.01 to 4561.151 of the Revised Code~~ this chapter 302
shall be deposited in the state treasury to the credit of the 303
highway operating fund. All such moneys shall be expended in 304
accordance with the terms imposed by the United States in making 305
the grants thereof. 306

Sec. 4561.09. Each ~~regional airport authority, county,~~ 307
~~municipal corporation, and agency~~ local authority of this state 308
may accept, receive, and give receipt for federal funds upon 309
such terms as are prescribed by the laws of the United States 310
and any rules and regulations made thereunder, and may treat 311
similarly other funds, public or private, for ~~the acquisition,~~ 312
~~establishment, construction, enlargement, improvement,~~ 313
~~equipment, or operation of airports, landing fields, and other~~ 314
~~air navigation facilities~~ conducting airport activities. 315

~~The board of trustees of a regional airport authority and~~ 316

~~the legislative body of each county or municipal corporation~~ A 317
local authority may designate the department of transportation 318
as the agent of ~~such regional airport authority, county, or~~ 319
~~municipal corporation~~ the local authority to accept, receive, 320
and give receipt for federal funds upon such terms as are 321
prescribed by the laws of the United States and any rules or 322
regulations made thereunder, and to treat similarly other funds, 323
public or private, for ~~the acquisition, establishment,~~ 324
~~construction, enlargement, improvement, equipment, or operation~~ 325
~~of airports, landing fields, and other air navigation~~ 326
~~facilities~~ conducting airport activities, whether such work is to 327
be done by the ~~regional airport authority, county, or municipal~~ 328
~~corporation~~ local authority alone, or jointly with the state, or 329
jointly with the state and other counties or municipal 330
corporations. Such ~~board of trustees or legislative body~~ local 331
authority may designate the department as its agent in any other 332
matter connected with ~~the acquisition, establishment,~~ 333
~~construction, enlargement, improvement, equipment, or operation~~ 334
~~of airports, landing fields, and other air navigation~~ 335
~~facilities~~ conducting airport activities, and may enter into, or 336
authorize the ~~executive department~~ designee of such ~~political~~ 337
~~subdivision~~ local authority to enter into, an agreement with the 338
department prescribing the terms of such agency, in accordance 339
with the laws of the United States and any rules or regulations 340
made thereunder. 341

All contracts and grants for ~~the acquisition,~~ 342
~~establishment, construction, enlargement, improvement,~~ 343
~~equipment, or operation of airports, landing fields, or other~~ 344
~~air navigation facilities~~ airport activities made by a ~~regional~~ 345
~~airport authority, county, municipal corporation,~~ local authority 346
or agency of this state shall be made pursuant to the ~~only for~~ 347

public-use, publicly owned airports and shall comply with all 348
applicable state and federal laws of this state, rules, and 349
regulations governing the making of such contracts and grants; 350
~~provided that when the acquisition, establishment, construction,~~ 351
~~enlargement, improvement, equipment, or operation of airports,~~ 352
~~landing fields, or other air navigation facilities is financed~~ 353
~~wholly or partly with federal funds, the regional airport~~ 354
~~authority, county, municipal corporation, or agency of this~~ 355
~~state may let contracts in the manner prescribed by the federal~~ 356
~~authorities acting under the laws of the United States and any~~ 357
~~rules or regulations made thereunder.~~ 358

Sec. 4561.11. (A) All publicly and privately owned 359
airports, landing fields, and landing areas, including those 360
located on public waters, shall be inspected and approved by the 361
department of transportation before being used for commercial 362
purposes. The department may issue a certificate of approval in 363
each case. ~~The~~ In accordance with Chapter 119. of the Revised 364
Code, the department shall require that a complete plan of such 365
airport, landing field, or landing area establish the documents 366
and information required to be filed with it the department 367
before granting or issuing it will grant or issue such approval; 368
provided that in no case in which the department licenses or 369
certifies for commercial operations an airport, landing field, 370
or landing area constructed, maintained, or supported, in whole 371
or in part, by public funds, under ~~sections 4561.01 to 4561.151~~ 372
~~of the Revised Code~~ this chapter, shall the public be deprived of 373
the use thereof or its facilities for aviation purposes as fully 374
and equally as all other parties. 375

In any case in which the department rejects or disapproves 376
an application to commercially operate an airport, landing 377
field, or landing area, or in any case in which the department 378

issues an order requiring certain things to be done before 379
approval, it shall set forth its reasons therefor and shall 380
state the requirements to be met before such approval will be 381
given or such order modified or changed. In any case in which 382
the department considers it necessary, it may order the closing 383
of any airport, landing field, or landing area for commercial 384
purposes until the requirements of the order made by the 385
department are complied with. 386

Appeal from any action or decision of the department in 387
any such matter shall be made in accordance with sections 119.01 388
to 119.13 of the Revised Code. 389

~~The department shall require that any person engaged 390
within this state in operating aircraft, in any form of 391
navigation, shall be the holder of a currently effective 392
aviator's license issued by the civil aeronautics 393
administration. 394~~

~~The aviator's license required by this section shall be 395
kept in the personal possession of the pilot when the pilot is 396
operating aircraft within this state, and shall be presented for 397
inspection upon the request of any passenger, any authorized 398
representative of the department, or any official manager or 399
person in charge of any airport, landing field, or area in this 400
state upon which the pilot lands. 401~~

(B) Whoever violates this section shall be fined not more 402
than five hundred dollars, imprisoned not more than ninety days, 403
or both. 404

Sec. 4561.12. (A) Unless operated by the department of 405
transportation or its agents, no aircraft shall be operated ~~or~~ 406
~~maintained~~ on any public land or water owned or controlled by 407

this state, or by any political subdivision of this state, 408
except at such places and under such rules and regulations 409
governing and controlling the operation ~~and maintenance~~ of 410
aircraft as are adopted and ~~promulgated~~ amended by the 411
department in accordance with sections 119.01 to 119.13 of the 412
Revised Code. 413

Such action and approval by the department shall not 414
become effective until it has been approved by the adoption and 415
~~promulgation~~ amendment of appropriate rules governing, 416
controlling, and approving said places and the method of 417
operation ~~and maintenance~~ of aircraft, by the department, 418
division, political subdivision, agent, or agency of this state 419
having ownership or control of the places on said public land or 420
water which are affected by such operation ~~or maintenance~~ of 421
aircraft thereon. 422

(B) Whoever violates this section shall be fined not more 423
than five hundred dollars, imprisoned not more than ninety days, 424
or both. 425

Sec. 4561.14. (A) No person shall ~~operate~~ do any of the 426
following: 427

(1) Operate any civil aircraft in this state unless ~~such~~ 428
the person is the holder of a valid aviator's license pilot 429
certification or authorization issued by the United States. 430

~~No person operating an aircraft within this state shall~~ 431
~~fail~~ or a valid pilot certification or similar document issued 432
or validated by the country in which the aircraft is registered; 433

(2) Fail to exhibit ~~such license~~ the certification or 434
document for inspection upon the demand of any passenger on such 435
aircraft, or ~~fail to exhibit same for inspection upon the demand~~ 436

of any peace officer, member or employee of the department of 437
transportation, or manager or person in charge of an airport or 438
landing field within this state, prior to taking off or upon 439
landing said aircraft. 440

~~No person shall operate;~~ 441

(3) Operate an aircraft within this state unless such the 442
aircraft is licensed and registered by the United States; ~~this~~ 443
~~section is inapplicable.~~ This division does not apply to the 444
operation of military aircraft of the United States, aircraft of 445
a ~~state, territory,~~ or possession of the United States, or 446
aircraft licensed by a foreign country with which the United 447
States has a reciprocal agreement covering the operation of such 448
aircraft. 449

~~No person shall operate~~ (4) Operate an aircraft within 450
this state in violation of any air traffic rules in force under 451
the laws of the United States or under ~~sections 4561.01 to~~ 452
~~4561.14 of the Revised Code~~ this chapter, and the rules and 453
regulations of the department adopted pursuant thereto. 454

(B) Whoever violates this section shall be fined not more 455
than five hundred dollars, imprisoned not more than ninety days, 456
or both. 457

Sec. 4561.15. (A) No person shall commit any of the 458
following acts: 459

(1) Carry passengers in an aircraft unless the person 460
piloting the aircraft is a holder of a valid ~~airperson's air~~ 461
crew certificate of competency issued by the United States that 462
authorizes the holder to carry passengers and the person is 463
carrying any passenger in accordance with the applicable 464
certificate requirements; this division of this section is 465

inapplicable to the operation of military aircraft of the United States, aircraft of a state, territory, or possession of the United States, or aircraft licensed by a foreign country with which the United States has a reciprocal agreement covering the operation of such aircraft;

(2) Operate an aircraft on the land or water or in the ~~air space~~airspace over this state in a careless or reckless manner that endangers any person or property, or with willful or wanton disregard for the rights or safety of others;

(3) Operate an aircraft on the land or water or in the ~~air space~~airspace over this state while under the influence of intoxicating liquor, controlled substances, or other habit-forming drugs;

(4) Tamper with, alter, destroy, remove, carry away, or cause to be carried away any object used for the marking of airports, landing fields, or other aeronautical facilities in this state, or in any way change the position or location of such markings, except by the direction of the proper authorities charged with the maintenance and operation of such facilities, or illegally possess any object used for such markings;

(5) Operate an unmanned aerial vehicle, as defined in section 4561.50 of the Revised Code, on the land or water or in the ~~air space~~airspace over this state in a manner that knowingly endangers any person or property or purposely disregards the rights or safety of others.

(B) Jurisdiction over any proceedings charging a violation of this section is limited to courts of record.

(C) Whoever violates this section shall be fined not more than five hundred dollars, imprisoned not more than six months,

or both. 495

Sec. 4561.31. ~~(A)(1)~~ (A) Notwithstanding section 4561.01 of 496
the Revised Code, as used in sections 4561.31 to 4561.40 of the 497
Revised Code, "airport" means any airport issued a commercial 498
operating certificate and a medical use heliport. 499

(B) Except as provided in divisions ~~(D)~~, ~~(E)~~, and (F) of 500
this section, ~~no~~ any person shall commence to that is required 501
to file notice with the federal aviation administration under 14 502
C.F.R. part 77 before the person may install, erect, construct, 503
establish, or alter any structure or object of natural growth in 504
this state, ~~any part of which will penetrate or is reasonably~~ 505
~~expected to penetrate into or through any airport's clear zone~~ 506
~~surface, horizontal surface, conical surface, primary surface,~~ 507
~~approach surface, or transitional surface without first~~ 508
~~obtaining~~ also shall obtain a permit from the department of 509
transportation under section 4561.34 of the Revised Code. ~~The~~ 510
~~replacement of an existing structure or object of natural growth~~ 511
~~with, respectively, a structure or object that is not more than~~ 512
~~ten feet or twenty per cent higher than the height of the~~ 513
~~existing structure or object, whichever is higher, does not~~ 514
~~constitute commencing to install a structure or object, except~~ 515
~~when any part of the structure or object will penetrate or is~~ 516
~~reasonably expected to penetrate into or through any airport's~~ 517
~~clear zone surface, horizontal surface, conical surface, primary~~ 518
~~surface, approach surface, or transitional surface. Such~~ 519
~~replacement of a like structure or object is not exempt from any~~ 520
~~other requirements of state or local law.~~ 521

~~(2) No person shall substantially change, as determined by~~ 522
~~the department, the height or location of any structure or~~ 523
~~object of natural growth in this state, any part of which, as a~~ 524

~~result of such change, will penetrate or is reasonably expected to penetrate into or through any airport's clear zone surface, horizontal surface, conical surface, primary surface, approach surface, or transitional surface, and for which installation had commenced or which was already installed prior to October 15, 1991, without first obtaining a permit from the department under section 4561.34 of the Revised Code. This division does not exempt the structure or object from any other requirements of state or local law.~~ 525
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~~(3) No person shall substantially change, as determined by the department, the height or location of any structure or object of natural growth for which a permit was issued pursuant to section 4561.34 of the Revised Code, without first obtaining an amended permit from the department under that section.~~ 534
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~~(B)~~ (C) No person shall install, erect, construct, establish, alter, operate, or maintain any structure or object of natural growth for which a permit has been issued under section 4561.34 of the Revised Code, except in compliance with the permit's terms and conditions and with any rules or orders issued under ~~sections 4561.30 to 4561.39 of the Revised Code~~ this chapter. 539
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~~(C)~~ (D) The holder of a permit issued under section 4561.34 of the Revised Code, ~~with the department's approval,~~ may transfer the permit to another person who agrees to comply with its terms and conditions. The transferor shall notify the department of the transfer not later than sixty days after the transfer. 546
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~~(D)~~ (E) A person who receives shall apply for a permit to install, erect, construct, establish, substantially change, or ~~substantially alter~~ a structure or object of natural growth 552
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from an airport zoning board ~~on or after October 15, 1991,~~ under 555
Chapter 4563. of the Revised Code when both of the following 556
apply: 557

(1) The airport zoning board exists in the geographical 558
area of the proposed installation, erection, construction, 559
establishment, or alteration of the structure or object of 560
natural growth. 561

(2) The airport zoning board has adopted airport zoning 562
regulations pursuant to section 4563.032 of the Revised Code. 563

Any person required to apply for a permit from the airport 564
zoning board under this division is not required to apply for a 565
permit from the department under ~~sections 4561.30 to 4561.39 of~~ 566
~~the Revised Code, provided that the airport zoning board has~~ 567
~~adopted airport zoning regulations pursuant to section 4563.032~~ 568
~~of the Revised Code~~this chapter. 569

~~(E)~~ (F) Any person who receives required to apply for a 570
certificate from the power siting board pursuant to section 571
4906.03 or 4906.10 of the Revised Code ~~on or after October 15,~~ 572
~~1991,~~ is not required to apply for a permit from the department 573
under ~~sections 4561.30 to 4561.39 of the Revised Code~~this 574
chapter. 575

~~(F) Any person who, in accordance with 14 C.F.R. 77.11 to~~ 576
~~77.19, notified the federal aviation administration prior to~~ 577
~~June 1, 1991, that the person proposes to construct, establish,~~ 578
~~substantially change, or substantially alter a structure or~~ 579
~~object of natural growth is not required to apply for a permit~~ 580
~~from the department under sections 4561.30 to 4561.39 of the~~ 581
~~Revised Code in connection with the construction, establishment,~~ 582
~~substantial change, or substantial alteration of the structure~~ 583

~~or object of natural growth either as originally proposed to the~~ 584
~~federal aviation administration or as altered as the person or~~ 585
~~the federal aviation administration considers necessary,~~ 586
~~provided that the federal aviation administration, pursuant to~~ 587
~~14 C.F.R. Part 77, does not determine that the proposed~~ 588
~~construction, establishment, substantial change, or substantial~~ 589
~~alteration of the structure or object of natural growth would be~~ 590
~~a hazard to air navigation.~~ 591

(G) (1) Whoever violates division ~~(A) (1) or (2)~~ (B) of this 592
section is guilty of a misdemeanor of the third degree. Each day 593
of violation constitutes a separate offense. 594

(2) Whoever violates division ~~(A) (3) or (B)~~ (C) of this 595
section is guilty of a misdemeanor of the first degree. Each day 596
of violation constitutes a separate offense. 597

Sec. 4561.32. (A) In accordance with Chapter 119. of the 598
Revised Code, the department of transportation shall adopt, and 599
may amend and rescind, any rules necessary to administer 600
sections ~~4561.30~~4561.31 to ~~4561.39~~4561.40 of the Revised Code 601
~~and shall adopt rules based in whole upon the obstruction~~ 602
standards set forth in 14 C.F.R. ~~77.21 to 77.29, as amended~~part 603
77, to uniformly regulate the height and location of structures 604
and objects of natural growth ~~in any airport's clear zone~~ 605
~~surface, horizontal surface, conical surface, primary surface,~~ 606
~~approach surface, or transitional surface~~that are considered an 607
obstruction to air navigation in accordance with those federal 608
standards. The rules shall provide that the department, upon a 609
determination that the height and location of a structure or 610
object of natural growth, as set forth in the permit 611
application, will be an obstruction, may grant a permit under 612
section 4561.34 of the Revised Code that includes a waiver from 613

full compliance with the obstruction standards found in 14 614
C.F.R. part 77. The rules shall ~~also provide that the department~~ 615
~~shall base its~~ what information shall be included in the 616
department's decision on whether to grant such a waiver on sound 617
aeronautic principles, ~~as set out in F.A.A. technical manuals,~~ 618
~~as amended, including advisory circular 150/5300-13, "airport~~ 619
~~design standards"; 7400.2e, "airspace procedures handbook,"; and~~ 620
~~the U.S. terminal procedures handbook~~ including the results of 621
any studies or investigations conducted and any federal aviation 622
administration technical manuals, advisory circulars, airport 623
design standards, airspace procedures, and the U.S. terminal 624
procedures that were consulted. 625

The consideration of safety shall be paramount to 626
considerations of economic or technical factors. In making a 627
determination under this division, the department may consider 628
findings and recommendations of other government entities and 629
interested persons concerning the proposed structure or object 630
of natural growth. However, those findings and recommendations 631
are not binding on the department. 632

(B) The department may conduct any studies or 633
investigations it considers necessary to carry out sections 634
~~4561.30~~4561.31 to ~~4561.39~~4561.40 of the Revised Code or may 635
enter into any contract for those services. 636

Sec. 4561.33. (A) An applicant for a permit required by 637
section 4561.31 of the Revised Code shall ~~file with the~~ 638
~~department of transportation an application made on forms the~~ 639
~~department prescribes, which shall contain the following~~ 640
~~information:~~ 641

~~(1) A description of the structure or object of natural~~ 642
~~growth for which the permit is sought, its location, and the~~ 643

~~planned date of commencement of installation;~~ 644

~~(2) A statement explaining the need for the structure or
object;~~ 645
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~~(3) A statement of the reasons why the proposed location
is best suited for the structure or object;~~ 647
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~~(4) Any additional information the applicant considers
relevant or the department requires.~~ 649
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~~An application for an amended permit shall be in the form
and contain the information the department prescribes.~~ 651
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~~In lieu of an application prescribed by the department, an
applicant may file a copy of the submit a completed federal
aviation administration's administration form 7460-1, "notice of
proposed construction or alteration" to the federal aviation
administration. Such submission shall serve as the application
for the permit required from the department of transportation.~~ 653
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~~(B) An applicant shall file an application not less than
thirty days nor more than two years prior to the planned date of
commencement of installation or substantial change. This period
may be waived by the department for unforeseen emergencies.~~ 659
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~~(C) If the structure or object in the application could
have a potential impact on a military installation, as such an
impact is described in the airfield land use compatibility study
of that military installation, the applicant shall send, within
seven days after the filing of his application, a copy of the
application to the commander of the installation and the
appropriate branch of the United States department of defense.~~ 663
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~~(D) It is not necessary that ownership of, option for, or
other possessory right to a specific site be held by the~~ 670
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applicant before an application may be filed under this section. 672

~~(E)~~ (C) If the department has reason to believe that any 673
person has or is commencing to install, erect, construct, 674
establish, or alter a structure or object of natural growth for 675
which a permit appears to be required under section 4561.31 of 676
the Revised Code, but concerning which no application for a 677
permit under section 4561.34 of the Revised Code has been filed_ 678
or no permit issued, the department shall issue an order to such 679
person to appear before the department and show cause why a 680
permit need not be obtained. 681

Sec. 4561.34. (A) The department of transportation, 682
subject to Chapter 119. of the Revised Code, shall grant or deny 683
a permit or grant a permit with waiver from obstruction 684
standards for which an application has been filed under section 685
4561.33 of the Revised Code. In determining whether to grant or 686
deny a permit, the department shall ~~determine whether the height~~ 687
~~and location of a structure or object of natural growth, as set~~ 688
~~forth in the permit application, will be an obstruction to air~~ 689
~~navigation based upon the rules adopted under section 4561.32 of~~ 690
~~the Revised Code if installed as proposed. In the case of an~~ 691
~~application to substantially change an existing structure or~~ 692
~~object, the department shall determine whether the change in the~~ 693
~~height or location of the structure or object, as set forth in~~ 694
~~the application, will create such an obstruction. The~~ 695
~~consideration of safety shall be paramount to considerations of~~ 696
~~economic or technical factors. In making a determination under~~ 697
~~this division the department shall render its decision upon the~~ 698
~~record, but may consider findings and recommendations of other~~ 699
~~governmental entities and interested persons concerning the~~ 700
~~proposed structure or object; however, those findings and~~ 701
~~recommendations are not binding on the department~~ conduct its own 702

study and review of the permit application concurrent with the 703
federal aviation administration's review. Not later than 704
seventy-five days after the federal aviation administration 705
issues its final determination, the department shall grant the 706
permit, deny the permit, or grant a permit with waiver from 707
obstruction standards. In making the department's decision, the 708
department shall do one of the following: 709

(1) If a federal aviation administration form 7460-1 was 710
filed, but the proposed installation, erection, construction, 711
establishment, or alteration does not meet the notification 712
standards under 14 C.F.R. part 77, the department shall issue a 713
written statement to the applicant that no permit is required. 714

(2) If the federal aviation administration issues a 715
determination of hazard, the department shall deny the permit. 716

(3) If the federal aviation administration issues a 717
determination of no hazard and the proposed installation, 718
erection, construction, establishment, or alteration will not be 719
an obstruction to the navigable airspace of an airport, the 720
department shall issue a permit. 721

(4) If the federal aviation administration issues a 722
determination of no hazard, but the proposed installation, 723
erection, construction, establishment, or alteration will be an 724
obstruction to the navigable airspace of an airport, the 725
department shall make a determination of whether to grant a 726
permit with waiver from obstruction standards pursuant to 727
section 4561.32 of the Revised Code or to deny the permit. Prior 728
to the department's determination, all of the following shall 729
occur: 730

(a) Not later than five business days after the receipt of 731

the federal aviation administration's final determination, the 732
department shall contact the airport sponsor and request a 733
written decision, on official letterhead, as to the federal 734
aviation administration's determination of no hazard. If the 735
airport sponsor objects to the determination of no hazard, the 736
airport sponsor within its written decision shall list the 737
specific aeronautical impacts the obstruction would have to its 738
facility or to the navigable airspace of the airport. The 739
decision also shall include any proposed conditions or 740
modifications that would allow the obstruction to exist in the 741
navigable airspace of the airport. 742

(b) The airport sponsor shall submit the written decision 743
to the department not later than sixty days after the federal 744
aviation administration's determination is final. 745

(c) Not later than five days after receipt of the airport 746
sponsor's written decision, the department shall forward that 747
written decision to the permit applicant. The permit applicant 748
may submit additional information to the department in response 749
to the airport sponsor's written decision not later than seven 750
days after receipt of the written decision. If submitted, the 751
department shall consider any additional information in making 752
its decision regarding the permit. 753

~~(B) The~~ If a permit is denied, the department ~~may grant a~~ 754
~~permit under this section subject to~~ shall indicate any 755
~~modification of~~ to the height or location of a structure or 756
~~object the department considers necessary. In the absence of~~ 757
~~such modification or unless it grants a waiver from compliance~~ 758
~~with the obstruction standards, the department shall deny a~~ 759
~~permit if it determines, in accordance with division (A) of this~~ 760
~~section, that a proposed structure or object or a change to an~~ 761

~~existing structure or object, as set forth in the application,~~ 762
~~would be an obstruction to air navigation based upon the rules~~ 763
~~adopted under section 4561.32 of the Revised Code~~the proposed 764
installation, erection, construction, establishment, or 765
alteration that would allow the department to issue the permit. 766

(C) In rendering a decision on an application for a 767
permit, the department shall issue an opinion stating ~~its~~ 768
~~reasons for the action taken. The department~~all factors it 769
considered in making its decision, and shall serve upon the 770
applicant and ~~each party, as provided in division (C) of section~~ 771
~~4561.33 of the Revised Code,~~the applicable airport sponsor a 772
copy of its decision regarding a permit and the opinion.The 773
department shall include with the copy of its decision a notice 774
that an appeal of the decision may be made in accordance with 775
Chapter 119. of the Revised Code. 776

(D) Any written decisions issued in accordance with this 777
section may be sent to the recipient through electronic means, 778
in addition to regular mail, in order to expedite sharing the 779
content of the decision. 780

Sec. 4561.341. Pursuant to any consultation with the power 781
siting board regarding an application for certification under 782
section 4906.03 or 4906.10 of the Revised Code, the office of 783
aviation ~~of the division of multi-modal planning and programs~~ of 784
the department of transportation shall review the application to 785
determine whether the facility constitutes or will constitute an 786
obstruction to air navigation based upon the rules adopted under 787
section 4561.32 of the Revised Code. Upon review of the 788
application, if the office determines that the facility 789
constitutes or will constitute an obstruction to air navigation, 790
it shall provide, in writing, this determination and either the 791

terms, conditions, and modifications that are necessary for the 792
applicant to eliminate the obstruction or a statement that 793
compliance with the obstruction standards may be waived, to the 794
power siting board under section 4906.03 or 4906.10 of the 795
Revised Code, as appropriate. 796

Sec. 4561.35. The department of transportation shall 797
specify all of the following in each permit and each permit with 798
a waiver granted under section 4561.34 of the Revised Code: 799

(A) The terms and conditions regarding the height and 800
location of the structure or object of natural growth that the 801
department considers necessary to ensure the safety of aircraft 802
in landing or taking off at any airport, the safety of persons 803
occupying or using such area, and the security of property, 804
including any modifications to the height or location of the 805
structure or object of natural growth set forth in the permit 806
application. If the department modifies the location of all or 807
part of a proposed structure or object, it shall provide notice 808
of the relocation to the municipal corporation or township and 809
the county to which the structure or object is being relocated, 810
and the persons residing in the area of the relocation, by 811
whatever means the department considers appropriate. 812

(B) The obstruction markers, markings, lighting, or other 813
visual or aural identification, if any, that must be installed 814
on or in the vicinity of the structure or object of natural 815
growth as a condition of the permit. Any such identification 816
shall conform as much as practicable to federal guidelines and 817
standards. As a condition of the permit, the department ~~shall~~ 818
may require that any required lighting be maintained in operable 819
condition. 820

Sec. 4561.36. (A) The department of transportation shall 821

not issue any permit under ~~sections 4561.30 to 4561.39 of the~~ 822
~~Revised Code~~ this chapter that will result in the creation of an 823
obstruction ~~to air navigation~~ based upon the rules adopted under 824
section 4561.32 of the Revised Code, unless the department 825
waives compliance with the obstruction standards included in 826
those rules. 827

(B) ~~Sections 4561.30 to 4561.39 of the Revised Code do~~ 828
This chapter does not authorize the department to restrict the 829
height or location of structures or objects of natural growth 830
under ~~those sections~~ the chapter for any reason other than to 831
ensure the safety of aircraft in landing and taking off at an 832
airport, the safety of persons occupying or using the area, and 833
the security of property. 834

Sec. 4561.37. ~~Sections 4561.30 to 4561.39 of the Revised~~ 835
~~Code~~ (A) (1) This chapter and the rules adopted under it shall 836
not be construed to require the removal or lowering of, or the 837
making of any other change in to, any structure or object of 838
natural growth ~~not conforming to rules or orders of the~~ 839
~~department of transportation under those sections when adopted~~ 840
~~or amended, or otherwise interfere with the continuance of any~~ 841
~~nonconforming use; except that, if ordered by the department,~~ 842
~~the~~ that was in existence prior to the original enactment of 843
this section on October 15, 1991, or for which a permit, a 844
written statement of no permit required, or a permit with waiver 845
from obstruction standards was issued by the department of 846
transportation. 847

(2) Division (A) (1) of this section does not apply if the 848
structure or object of natural growth was altered in a way that 849
is contrary to the terms and conditions of the issued permit. 850

(B) A structure or object of natural growth is subject to 851

the laws and rules that are effective as of the issue date of 852
the permit for the structure's or object of natural growth's 853
installation, erection, construction, establishment, or 854
alteration. However, any substantial change to the structure or 855
substantial growth to the object of natural growth is subject to 856
the laws and rules that are effective as of the date the 857
substantial change or growth occurs. 858

(C) The owner of a nonconforming structure or object that 859
is permanently out of service, or is partially dismantled, 860
destroyed, deteriorated, or decayed shall demolish or remove 861
that structure or object; and, if, If any nonconforming use is 862
voluntarily discontinued for two years or more, any future use 863
of the premises shall be in conformity with sections 4561.30 to 864
4561.39 of the Revised Code this chapter. 865

Sec. 4561.38. With respect to any structure or object of 866
natural growth for which a permit is required under section 867
~~4561.34~~ 4561.31 of the Revised Code, rules adopted or orders 868
issued under ~~sections 4561.30 to 4561.39 of the Revised Code~~ 869
this chapter and the terms and conditions of any permit issued 870
under ~~those sections~~ it prevail in the event of a conflict with 871
any airport zoning regulation adopted under sections 4563.01 to 872
4563.21 of the Revised Code, any local regulation under section 873
4905.65 of the Revised Code, any zoning regulation otherwise 874
applicable to the structure or object, or the terms or 875
conditions of any permit issued under sections 4563.01 to 876
4563.21 of the Revised Code after ~~the effective date of this~~ 877
~~section~~ the effective date of this amendment. 878

Sec. 4561.39. In addition to any other remedy provided by 879
law, the department of transportation or an airport sponsor may 880
institute in any court of competent jurisdiction an action to 881

prevent, restrain, correct, or abate any alleged violation or 882
threatened violation of ~~sections 4561.30 to 4561.39 of the~~ 883
~~Revised Code~~ this chapter or any rule adopted or order issued 884
under ~~the~~ permit. The court may grant such relief as may be 885
necessary. 886

Sec. 4561.40. The department of transportation and the 887
office of aviation are not liable for any damages caused by a 888
structure or object of natural growth that is an obstruction if 889
any of the following apply: 890

(A) The structure or object of natural growth was 891
installed, erected, constructed, established, or altered without 892
a permit issued under this chapter. 893

(B) A permit was issued under this chapter for the 894
structure or object of natural growth, but the structure or 895
object of natural growth was installed, erected, constructed, 896
established, altered, or allowed to grow in a manner that is not 897
in compliance with the terms and conditions of the permit. 898

(C) The structure or object of natural growth was 899
installed, erected, constructed, established, or altered 900
pursuant to a certificate issued by the power siting board 901
pursuant to section 4906.03 or 4906.10 of the Revised Code. 902

(D) The structure or object of natural growth was 903
installed, erected, constructed, established, or altered 904
pursuant to a permit issued by an airport zoning board pursuant 905
to Chapter 4563. of the Revised Code. 906

Sec. 4561.99. ~~Whoever violates any provision of sections~~ 907
~~4561.021 to 4561.13 of the Revised Code~~ this chapter for which 908
no penalty otherwise is provided in the section that contains 909
the provision violated shall be fined not more than five hundred 910

dollars, imprisoned not more than ninety days, or both. 911

Sec. 4563.01. As used in ~~sections 4563.01 to 4563.21 of~~ 912
~~the Revised Code~~ this chapter: 913

(A) "Airport" means any area of land or water designed and 914
set aside for the landing and taking off of aircraft, and for 915
that purpose possessing one or more hard surfaced runways of a 916
length of not less than ~~three~~ one thousand ~~five~~ eight hundred 917
feet, and designed for the storing, repair, and operation of 918
aircraft, and utilized or to be utilized in the interest of the 919
public for such purposes, and any area of land designed for such 920
purposes for which designs, plans, and specifications conforming 921
to the above requirements have been approved by the office of 922
aviation ~~of the division of multi-modal planning and programs~~ of 923
the department of transportation and for which not less than 924
seventy per cent of the area shown by such designs and plans to 925
constitute the total area has been acquired. An airport is 926
"publicly owned" if the portion thereof used for the landing and 927
taking off of aircraft is owned, operated, leased to, or leased 928
by the United States, any agency or department thereof, this 929
state or any other state, or any political subdivision of this 930
state or any other state, or any other governmental body, public 931
agency, or public corporation, or any combination thereof. 932

(B) "Airport hazard" means any structure or object of 933
natural growth or use of land within an airport hazard area that 934
obstructs the ~~air space~~ airspace required for the flight of 935
aircraft in landing or taking off at any airport or is otherwise 936
hazardous to ~~such landing or taking off of aircraft~~ air 937
navigation. 938

(C) "Airport hazard area" means any area of land adjacent 939
to an airport that has been declared to be an "airport hazard 940

area" ~~by the office of aviation in connection with any airport~~ 941
~~approach plan recommended by the office~~ as depicted on an 942
approved airport approach plan. 943

(D) "Political subdivision" means any municipal 944
corporation, township, or county. 945

(E) "Person" means any individual, firm, 946
~~co~~partnership, partnership, corporation, company, association, 947
joint stock association, or body politic and includes any 948
trustee, receiver, assignee, or other similar representative 949
thereof. 950

(F) "Structure" ~~means any erected object, including,~~ 951
~~without limitation, buildings, towers, smokestacks, and overhead~~ 952
~~transmission lines~~ has the same meaning as in section 4561.01 of 953
the Revised Code. 954

(G) "Navigable airspace" has the same meaning as in 955
section 4561.01 of the Revised Code. 956

Sec. 4563.03. (A) When an airport is publicly owned and 957
all airport hazard areas appertaining to such airport are 958
located inside the territorial limits of one political 959
subdivision, the legislative authority of the political 960
subdivision shall constitute the airport zoning board. Such 961
legislative authority, acting as the airport zoning board, may 962
adopt, administer, and enforce airport zoning regulations for 963
such airport hazard area. Airport zoning regulations may divide 964
an airport hazard area into zones, and, within such zones, 965
regulate and restrict land uses which by their nature constitute 966
airport hazards, and regulate and restrict the height to which 967
structures may be erected or objects of natural growth may be 968
allowed to grow. ~~An obstruction of air space in an airport~~ 969

~~hazard area rising to a height not in excess of forty feet above 970
the established elevation of the airport, or three feet for each 971
one hundred feet or fraction thereof its location is distant 972
from the nearest point in the perimeter of the airport, 973
whichever is greater, shall be prima facie reasonable. 974~~

(B) When an airport is publicly owned and any airport 975
hazard area appertaining to such airport is located in more than 976
one political subdivision, the board of county commissioners of 977
each county in which such airport or such airport hazard area 978
may exist, shall constitute the airport zoning board, which 979
shall have the same power to adopt, administer, and enforce 980
airport zoning regulations as provided in division (A) of this 981
section. The board shall elect its own ~~chairman~~ chairperson. 982

Sec. 4563.031. Within the approach, transitional, ~~inner~~ 983
horizontal, and conical areas at a publicly owned airport, an 984
airport zoning board constituted under section 4563.03 of the 985
Revised Code may adopt, administer, and enforce zoning 986
regulations, in addition to its regulations adopted under 987
section 4563.03 of the Revised Code, in order to ensure the 988
safety of the navigable airspace, persons occupying or using 989
such areas, and the security of property located within such 990
areas. Airport zoning regulations may divide such approach, 991
transitional, ~~inner~~ horizontal, and conical areas into zones, 992
and within such zones, regulate and restrict land use in order 993
to minimize injury, loss of life, and hazards to the safety of 994
persons or to the security of property within such zones, and 995
may include regulations governing population density and 996
concentration of persons within such zones. 997

Prior to initial zoning under this section, the procedures 998
set forth in sections 4563.05, 4563.06, and 4563.08 of the 999

Revised Code for establishing the boundaries of the various 1000
zones and adopting the regulations therefor, shall be followed. 1001
"Approach area," "transitional area," "~~inner~~-horizontal area," 1002
or "conical area," respectively, means any area of land adjacent 1003
to an airport and within an airport hazard area, which has been 1004
declared to be an "approach area," "transitional area," "~~inner~~- 1005
horizontal area," or "conical area" by the office of aviation, 1006
based upon the approach plan for the airport. No zone 1007
established under this section may include any area outside such 1008
approach, transitional, ~~inner~~-horizontal, and conical areas. 1009

Sec. 4563.032. Any airport zoning board that adopts, 1010
administers, and enforces airport zoning regulations for an 1011
airport hazard area under section 4563.03 of the Revised Code 1012
shall adopt, as minimum regulations, the rules adopted by the 1013
department of transportation under section 4561.32 of the 1014
Revised Code that are based ~~in whole~~ upon the obstruction 1015
standards set forth in 14 C.F.R. ~~77.21 to 77.29, as amended,~~ 1016
part 77, in order to uniformly regulate the height and location 1017
of structures and objects of natural growth in any airport's 1018
clear zone surface, horizontal surface, conical surface, primary 1019
surface, approach surface, or transitional surfacepursuant to 1020
section 4563.031 of the Revised Code. 1021

Sec. 4563.04. In the event of conflict between any airport 1022
zoning regulations adopted under ~~sections 4563.01 to 4563.21,~~ 1023
~~inclusive, of the Revised Code~~this chapter, and any other zoning 1024
regulations applicable to the same area, whether the conflict be 1025
with respect to the height of structures or objects of natural 1026
growth, the use of land, or any other matter, and whether such 1027
other regulations were adopted by the political subdivision 1028
which adopted the airport zoning regulations or by some other 1029
political subdivision, the limitation or requirement best 1030

calculated to ~~insure~~ensure safety shall govern. 1031

Sec. 4563.05. Prior to initial zoning of any airport 1032
hazard area under ~~sections 4563.01 to 4563.21, inclusive, of the~~ 1033
~~Revised Code~~this chapter, the airport zoning board which is to 1034
adopt the regulations shall appoint a commission, to be known as 1035
the airport zoning commission, to recommend the boundaries of 1036
the various zones to be established and the regulations to be 1037
adopted therefor. Such commission shall make a preliminary 1038
report and hold public hearings thereon before submitting its 1039
final report, and the airport zoning board shall not hold its 1040
public hearings or take other action until it has received the 1041
final report of such commission. Where a city planning 1042
commission, township zoning commission, or county rural zoning 1043
commission already exists, it may be appointed as the airport 1044
zoning commission. 1045

Sec. 4563.06. No airport zoning regulations shall be 1046
adopted, amended, or changed under ~~sections 4563.01 to 4563.21,~~ 1047
~~inclusive, of the Revised Code~~this chapter, except by action of 1048
the legislative body of the political subdivision, after a 1049
public hearing in relation thereto, at which parties in interest 1050
and citizens shall have an opportunity to be heard. At least 1051
thirty days notice of the hearing shall be published in a 1052
newspaper of general circulation in the political subdivision in 1053
which the airport hazard area to be zoned is located and on the 1054
political subdivision's internet web site. 1055

Sec. 4563.07. All airport zoning regulations adopted under 1056
~~sections 4563.01 to 4563.21, inclusive, of the Revised Code~~this 1057
chapter shall be reasonable, and none shall impose any 1058
requirement or restriction which is not reasonably necessary to 1059
~~insure~~ensure the safety of aircraft ~~in landing and taking off~~ 1060

~~and~~ air navigation, the safety of persons occupying or using the area, and the security of property thereon. In determining what regulations are necessary, each political subdivision or airport zoning board shall consider, among other things, the character of the flying operations expected to be conducted at the airport, the per cent of slope or grade customarily used in descent or ascent of the aircraft expected to use the airport with reference to their size, speed, and type, the nature of the terrain within the airport hazard area, the character of the neighborhood, and the uses to which the property to be zoned is put or is adaptable.

Sec. 4563.08. In order to define and determine the airport hazard area in which airport zoning shall be applicable, the office of aviation, upon request of any airport zoning commission appointed pursuant to section 4563.05 of the Revised Code, shall ~~formulate and adopt, and may revise when necessary,~~ review and approve an airport approach plan for any airport within its jurisdiction. ~~Each~~ The airport zoning commission shall develop the plan. The plan shall indicate the airport hazard area, the circumstances under which structures, objects of natural growth, public highways, and certain uses of land would be airport hazards, and the height limits of structures and objects of natural growth, and what other restrictions should be contained in the airport zoning regulations. In ~~adopting or revising~~ developing the plan, the ~~office~~ airport zoning commission shall consider, among other things, the size, type, and speed of aircraft expected to use the airport, the character of the flying operations expected to be conducted at the airport, the traffic pattern and regulations affecting flying operations at the airport, the location of public highways, the nature of the terrain, the height of

existing structures and objects of natural growth above the 1092
level of the airport, and the possibility of lowering or 1093
removing existing obstructions. The ~~office~~ airport zoning 1094
commission may obtain and consider information from and the 1095
opinion of any agency of the federal government charged with the 1096
promotion, regulation, or control of civil aeronautics as to the 1097
approaches necessary to safe flying operations at the airport. 1098

Sec. 4563.09. No airport zoning regulations adopted under 1099
~~sections 4563.01 to 4563.21 of the Revised Code~~ this chapter 1100
shall require the removal, lowering, or other change or 1101
alteration of any structure or object of natural growth not 1102
conforming to the regulations ~~when adopted or amended~~ on or 1103
before January 1, 2004, or otherwise interfere with the 1104
continuance of any nonconforming use, except as provided in 1105
section 4563.14 of the Revised Code. 1106

Sec. 4563.10. Nothing in ~~sections 4563.01 to 4563.21 of~~ 1107
~~the Revised Code~~, this chapter shall confer any power on any 1108
political subdivision or airport zoning board to prohibit the 1109
use of any land for farming, dairying, pasturage, apiculture, 1110
horticulture, floriculture, viticulture, or animal and poultry 1111
husbandry, except where such use shall create an airport hazard. 1112
The provisions of ~~sections 4563.01 to 4563.21 of the Revised~~ 1113
~~Code~~ this chapter shall not apply in respect to the location, 1114
relocation, erection, construction, reconstruction, change, 1115
alteration, maintenance, removal, use, or enlargement of any 1116
buildings or structures, now existing or constructed in the 1117
future, of any public utility or railroad. 1118

Sec. 4563.11. All airport zoning regulations adopted under 1119
~~sections 4563.01 to 4563.21, inclusive, of the Revised Code~~, this 1120
chapter shall provide for the administration and enforcement of 1121

such regulations. The duties of any administrative agency 1122
designated pursuant to ~~sections 4563.01 to 4563.21, inclusive,~~ 1123
~~of the Revised Code,~~ this chapter shall include that of issuing 1124
all permits under section 4563.12 of the Revised Code. 1125

Sec. 4563.12. Airport zoning regulations adopted under 1126
~~sections 4563.01 to 4563.21, inclusive, of the Revised Code,~~ this 1127
chapter may require that a permit be obtained before any new 1128
structure or use may be constructed or established and before 1129
any existing structure or use may be substantially changed or 1130
substantially altered in an airport hazard area. No permit shall 1131
be granted that would allow the establishment or creation of an 1132
airport hazard, or permit a nonconforming structure to be made 1133
higher or a nonconforming object of natural growth to become 1134
higher or become a greater hazard to air navigation than it was 1135
when the applicable regulations were adopted or than it is when 1136
the application for a permit is made. If any nonconforming use 1137
is voluntarily discontinued for two years or more, any future 1138
use of the premises shall be in conformity with ~~sections 4563.01~~ 1139
~~to 4563.21, inclusive, of the Revised Code~~ this chapter. 1140

Sec. 4563.13. All airport zoning regulations adopted under 1141
~~sections 4563.01 to 4563.21, inclusive, of the Revised Code,~~ this 1142
chapter shall provide for an airport zoning board of appeals. 1143
Where a zoning board of appeals already exists, it may be 1144
designated as the airport zoning board of appeals. The airport 1145
zoning board of appeals, except in those instances in which an 1146
existing zoning board of appeals is designated as the airport 1147
zoning board of appeals, shall consist of five members, each to 1148
be appointed for a term of three years by the authority adopting 1149
the regulations and subject to removal by the appointing 1150
authority for cause upon written charges and after public 1151
hearing. The first members of such board of appeals shall be so 1152

designated that two shall serve for one year, two shall serve 1153
for two years, and one shall serve for three years. 1154

Sec. 4563.16. Any person desiring to erect any structure, 1155
or increase the height of any structure, or permit the increases 1156
in height of any object of natural growth, or otherwise use ~~his~~ 1157
the person's property in any manner in conflict with airport 1158
zoning regulations adopted under ~~sections 4563.01 to 4563.21,~~ 1159
~~inclusive, of the Revised Code~~ this chapter, may apply to the 1160
airport zoning board of appeals for a variance from the zoning 1161
regulations in question. Such variance shall be allowed where a 1162
literal application or enforcement of the regulations would 1163
result in unnecessary hardship and the relief granted would not 1164
be contrary to the public interest or create conditions 1165
dangerous to the safety of aircraft using the airport or the 1166
navigable airspace of an airport, but would do substantial 1167
justice and would not be in conflict with factors set down for 1168
consideration in ~~sections 4563.07 and 4563.08 of the Revised~~ 1169
~~Code~~ this chapter. The board of appeals may subject any variance 1170
to any reasonable conditions that ~~they deem~~ it considers 1171
necessary. 1172

Sec. 4563.18. (A) ~~Any person aggrieved by any~~ Either of 1173
the following may appeal a decision of ~~an~~ administrative agency 1174
made in its administration of airport zoning regulations adopted 1175
under ~~sections 4563.01 to 4563.21, inclusive, of the Revised~~ 1176
~~Code, or any~~ this chapter: 1177

(1) Any person aggrieved by the decision; 1178

(2) Any governing body of a political subdivision or any 1179
airport zoning board ~~which is of the opinion that a~~ that 1180
considers the administrative agency's decision of such an 1181
~~administrative agency is an improper application of airport~~ 1182

zoning regulations ~~of concern to such governing body or board,~~ 1183
~~may.~~ 1184

The appeal shall be made to the airport zoning board of 1185
appeals authorized to hear and decide appeals from the decisions 1186
of ~~such~~ the administrative agency. 1187

(B) All appeals taken under this section shall be taken 1188
within twenty days after an order is filed in the office of the 1189
administrative agency, as provided by the rules of the airport 1190
zoning board of appeals, by filing ~~with the administrative~~ 1191
~~agency from which the appeal is taken and with the airport~~ 1192
~~zoning board of appeals~~ a notice of appeal specifying the 1193
grounds of such appeal. The notice of appeal shall be filed with 1194
the administrative agency from which the appeal is taken and 1195
with the airport zoning board of appeals. The administrative 1196
agency from which the appeal is taken shall transmit to the 1197
airport zoning board of appeals all the papers constituting the 1198
record upon which the action appealed from was taken. 1199

(C) An appeal shall stay all proceedings in furtherance of 1200
the action appealed from unless the administrative agency from 1201
which the appeal is taken certifies to the airport zoning board 1202
of appeals, after the notice of appeal has been filed with it, 1203
that by reason of the facts stated in the certificate a stay 1204
would, in its opinion, cause imminent peril to life or property. 1205
In such cases proceedings shall not be stayed other than by 1206
order of the airport zoning board of appeals on notice of the 1207
agency from which the appeal is taken and on due notice to the 1208
parties in interest. 1209

(D) The airport zoning board of appeals shall fix a 1210
reasonable time for the hearing of appeals that is not more than 1211
thirty days after the filing of the notice of appeal, give 1212

public notice and due notice to the parties in interest, and 1213
decide the same within a reasonable time. Upon the hearing any 1214
party may appear in person, by agent, or by attorney. 1215

(E) The airport zoning board of appeals, in conformity 1216
with ~~sections 4563.01 to 4563.21, inclusive, of the Revised~~ 1217
~~Code~~this chapter, may reverse, affirm wholly or partly, or 1218
modify, the order, requirement, decision, or determination 1219
appealed from. 1220

Sec. 4563.20. (A) No person shall violate any regulation, 1221
order, or ruling promulgated or made pursuant to ~~sections~~ 1222
~~4563.01 to 4563.21 of the Revised Code~~this chapter. 1223

(B) Whoever violates this section shall be fined not more 1224
than one hundred dollars. Each day's willful continuation of the 1225
violation is a separate offense. 1226

Sec. 4563.21. The political subdivision or airport zoning 1227
board adopting zoning regulations under ~~sections 4563.01 to~~ 1228
~~4563.21, inclusive, of the Revised Code~~this chapter may 1229
institute in any court of competent jurisdiction an action to 1230
prevent, restrain, correct, or abate any violation of ~~sections~~ 1231
~~4563.01 to 4563.21, inclusive, of the Revised Code~~this chapter, 1232
or of airport zoning regulations adopted under ~~such sections~~it, 1233
or of any order or ruling made in connection with the 1234
administration or enforcement. The court shall adjudge to the 1235
plaintiff such relief, by way of injunction, which may be 1236
mandatory, or otherwise, as may be proper under all the facts of 1237
and circumstances of the case, in order fully to effectuate the 1238
purposes of ~~sections 4563.01 to 4563.21, inclusive, of the~~ 1239
~~Revised Code~~this chapter and of the regulations adopted and 1240
orders and rulings made pursuant thereto. 1241

Sec. 4906.10. (A) The power siting board shall render a 1242
decision upon the record either granting or denying the 1243
application as filed, or granting it upon such terms, 1244
conditions, or modifications of the construction, operation, or 1245
maintenance of the major utility facility as the board considers 1246
appropriate. The certificate shall be subject to sections 1247
4906.101, 4906.102, and 4906.103 of the Revised Code and 1248
conditioned upon the facility being in compliance with standards 1249
and rules adopted under section 4561.32 and Chapters 3704., 1250
3734., and 6111. of the Revised Code. An applicant may withdraw 1251
an application if the board grants a certificate on terms, 1252
conditions, or modifications other than those proposed by the 1253
applicant in the application. 1254

The board shall not grant a certificate for the 1255
construction, operation, and maintenance of a major utility 1256
facility, either as proposed or as modified by the board, unless 1257
it finds and determines all of the following: 1258

(1) The basis of the need for the facility if the facility 1259
is an electric transmission line or gas pipeline; 1260

(2) The nature of the probable environmental impact; 1261

(3) That the facility represents the minimum adverse 1262
environmental impact, considering the state of available 1263
technology and the nature and economics of the various 1264
alternatives, and other pertinent considerations; 1265

(4) In the case of an electric transmission line or 1266
generating facility, that the facility is consistent with 1267
regional plans for expansion of the electric power grid of the 1268
electric systems serving this state and interconnected utility 1269
systems, that the facility will serve the interests of electric 1270

system economy and reliability, and, in the case of an electric 1271
transmission line, that the facility must consider implementing 1272
cost-effective advanced transmission technologies to maximize 1273
the value, expand capacity, or improve the reliability of the 1274
facility; 1275

(5) That the facility will comply with Chapters 3704., 1276
3734., and 6111. of the Revised Code and all rules and standards 1277
adopted under those chapters and under section 4561.32 of the 1278
Revised Code. In determining whether the facility will comply 1279
with all rules and standards adopted under section 4561.32 of 1280
the Revised Code, the board shall consult with the office of 1281
~~aviation of the division of multi-modal planning and programs of~~ 1282
the department of transportation under section 4561.341 of the 1283
Revised Code. 1284

(6) That the facility will serve the public interest, 1285
convenience, and necessity; 1286

(7) In addition to the provisions contained in divisions 1287
(A) (1) to (6) of this section and rules adopted under those 1288
divisions, what its impact will be on the viability as 1289
agricultural land of any land in an existing agricultural 1290
district established under Chapter 929. of the Revised Code that 1291
is located within the site and alternative site of the proposed 1292
major utility facility. Rules adopted to evaluate impact under 1293
division (A) (7) of this section shall not require the 1294
compilation, creation, submission, or production of any 1295
information, document, or other data pertaining to land not 1296
located within the site and alternative site. 1297

(8) That the facility incorporates maximum feasible water 1298
conservation practices as determined by the board, considering 1299
available technology and the nature and economics of the various 1300

alternatives. 1301

(B) If the board determines that the location of all or a 1302
part of the proposed facility should be modified, it may 1303
condition its certificate upon that modification, provided that 1304
the municipal corporations and counties, and persons residing 1305
therein, affected by the modification shall have been given 1306
reasonable notice thereof. 1307

(C) A copy of the decision and any opinion issued 1308
therewith shall be served upon each party. 1309

(D) The board shall render a decision under this section 1310
not later than one hundred fifty days after the date the 1311
application is determined to be complete. If the board does not 1312
render a decision within the time period required by this 1313
division, the application shall be deemed approved by operation 1314
of law, and the board shall issue a certificate to the 1315
applicant. 1316

Section 2. That existing sections 4561.01, 4561.021, 1317
4561.05, 4561.06, 4561.08, 4561.09, 4561.11, 4561.12, 4561.14, 1318
4561.15, 4561.31, 4561.32, 4561.33, 4561.34, 4561.341, 4561.35, 1319
4561.36, 4561.37, 4561.38, 4561.39, 4561.99, 4563.01, 4563.03, 1320
4563.031, 4563.032, 4563.04, 4563.05, 4563.06, 4563.07, 4563.08, 1321
4563.09, 4563.10, 4563.11, 4563.12, 4563.13, 4563.16, 4563.18, 1322
4563.20, 4563.21, and 4906.10 of the Revised Code are hereby 1323
repealed. 1324

Section 3. That section 4561.30 of the Revised Code is 1325
hereby repealed. 1326

Section 4. This act shall be known as the Airspace 1327
Protection Act. 1328