

As Introduced

135th General Assembly

Regular Session

2023-2024

H. B. No. 185

Representatives Callender, Fowler Arthur

Cosponsors: Representatives Lorenz, Willis



A BILL

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 Revised Code be enacted to read as follows:

Sec. 4561.01. As used in ~~sections 4561.01 to 4561.25 of the Revised Code~~this chapter:

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

(B) "Aircraft" means any ~~contrivance~~manned device used or ~~designed intended for navigation or flight in the air, excepting a parachute or other contrivance for such navigation used primarily as safety equipment.~~ "Aircraft" does not include an ultralight vehicle as defined by 14 C.F.R. part 103.

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

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

(E) "Air navigation facility" means any facility used, available for use, or designed for use in aid of navigation of aircraft, including airports, landing fields, facilities for the servicing of aircraft or for the comfort and accommodation of air travelers, and any structures, mechanisms, lights, beacons,

marks, communicating systems, or other instrumentalities or 49
devices used or useful as an aid to the safe taking off, 50
navigation, and landing of aircraft, or to the safe and 51
efficient operation or maintenance of an airport or landing 52
field, and any combination of such facilities. 53

(F) ~~"Air navigation hazard" means any structure, object of-~~ 54
~~natural growth, or use of land, that obstructs the air space-~~ 55
~~required for the flight of aircraft in landing or taking off at-~~ 56
~~any airport or landing field, or that otherwise is hazardous to-~~ 57
~~such landing or taking off.~~ "Airport sponsor" means the 58
controlling body of any regional airport authority, port 59
authority, public university or college, county, or municipal 60
corporation, or the owner or private entity that controls a 61
privately owned airport or medical use heliport. 62

(G) ~~"Air navigation," or "navigation of aircraft," or~~ 63
~~"navigate aircraft" means the operation of aircraft in the air-~~ 64
~~space~~ airspace over this state. 65

(H) ~~"Airperson"~~ "Air crew" means any individual who, as 66
the person in command, or as pilot, mechanic, or member of the 67
crew, engages in the navigation of aircraft. 68

(I) "Airway" means a route in the ~~air space~~ airspace over 69
and above the lands or waters of this state, ~~designated by the-~~ 70
~~Ohio aviation board as a route~~ suitable for the navigation of 71
aircraft. 72

(J) "Person" means any individual, firm, partnership, 73
corporation, company, association, joint stock association, or 74
body politic, and includes any trustee, receiver, assignee, or 75
other similar representative thereof. 76

(K) "Government agency" means a state agency, state 77

institution of higher education, regional port authority, or any 78
other political subdivision of the state, or the federal 79
government or other states. 80

(L) "Navigable airspace" means the airspace at and above 81
the minimum flight altitudes, including the airspace needed for 82
safe takeoff and landing. 83

(M) "Obstruction" means any existing or proposed structure 84
or object of natural growth that exceeds the obstruction 85
standards as found in 14 C.F.R. part 77. 86

(N) "Structure" means any permanent or temporary object, 87
including a building, tower, crane, scaffold, smokestack, batch 88
plant, earth formation, stockpile, transmission line, light 89
pole, flagpole, ship mast, traverse way, and mobile object. 90

(O) "Install, erect, construct, establish, or alter" means 91
undertaking any action that affects the natural environment of 92
the site of a structure or object of natural growth, including 93
clearing of land, excavation, or planting. "Install, erect, 94
construct, establish, or alter" does not include surveying 95
changes necessary for temporary use of the site and use in 96
securing geological data, including making necessary borings to 97
ascertain foundation conditions. 98

(P) "Helicopter" means the area of land, water, or a 99
structure that is used or intended to be used for the landing 100
and takeoff of helicopters, including any appurtenant buildings 101
and facilities. 102

(Q) "Vertiport" means the identifiable ground or elevated 103
areas, including the facilities thereon, that are designed to be 104
used for the landing and takeoff of rotorcraft, tilt-rotor 105
aircraft, or other powered lift aircraft. 106

(R) "Spaceport" means any facility in the state at which 107
space vehicles may be landed or launched, including all 108
facilities and support infrastructure related to the launch, 109
landing, and payload processing. 110

Sec. 4561.021. There is hereby created in ~~the division of~~ 111
~~multi-modal planning and programs of~~ the department of 112
transportation the office of aviation. The director of 113
transportation shall appoint the administrator of the office of 114
aviation, ~~who shall serve at the pleasure of the director.~~ The 115
administrator of the office of aviation shall be responsible to 116
the director for the organization, direction, and supervision of 117
the work of the office and the exercise of the powers and the 118
performance of the duties assigned to the office. Subject to 119
Chapter 124. of the Revised Code and civil service regulations, 120
the administrator, with the approval of the director, shall 121
select and appoint the necessary employees. The director also 122
may employ experts for assistance in any specific matter at a 123
reasonable rate of compensation. 124

Sec. 4561.05. The department of transportation shall 125
administer Chapter 4561. of the Revised Code. The department may 126
issue and amend orders, create application forms for permits and 127
certificates issued under this chapter, and adopt, modify, and 128
~~promulgate~~ rescind such rules as it determines necessary to 129
carry out this chapter. 130

~~The department may issue and amend orders, and make,~~ 131
~~promulgate, and amend, reasonable general and special rules and~~ 132
~~procedure, and establish minimum standards.~~ 133

~~The department may establish safety rules governing air~~ 134
~~navigation hazards, and the location, size, use, and equipment~~ 135
~~of airports and landing areas, and rules governing air marking,~~ 136

~~the use of signs or lights designed to be visible from the air,~~ 137
~~and other air navigation facilities.~~ 138

~~All rules and amendments thereto, prescribed by the~~ 139
~~department, shall conform to and coincide with, so far as~~ 140
~~possible, the "Civil Aeronautics Act of 1938," 52 Stat. 973, 49-~~ 141
~~U.S.C. 401, as amended, passed by the congress of the United~~ 142
~~States, and the air commerce regulations issued pursuant~~ 143
~~thereto.~~ 144

All acts of the department authorized under this section 145
shall be carried on in conformity with Chapter 119. of the 146
Revised Code. 147

Sec. 4561.06. (A) The department of transportation shall 148
encourage the development of aviation and the promotion of 149
aviation education and research within this state as, in its 150
judgment, may best serve the public interest. 151

(B) (1) The department may furnish engineering or other 152
technical counsel and services, with or without charge therefor, 153
to any appropriate government agency or private entity desiring 154
such counsel or services in connection with any question or 155
problem concerning the need for, or the location, construction, 156
maintenance, or operation of airports, landing fields, or other 157
air navigation facilities. 158

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

of a determination and any public notice and comment process 166
available. 167

(C) The department shall be the official representative of 168
this state in all civil actions, matters, or proceedings 169
pertaining to aviation in which this state is a party or has an 170
interest. 171

(D) (1) The department may investigate, and may cooperate 172
with any other appropriate government agency in the 173
investigation of, any accident occurring in this state in 174
connection with aviation. It may issue an order to preserve, 175
protect, or prevent the removal of any aircraft or air 176
navigation facility involved in an accident being so 177
investigated until the investigation is completed. The chief 178
executive officer or any law enforcement officer of this state 179
or any political subdivision in which an accident occurred shall 180
assist the department in enforcing such an order when called 181
upon to do so. 182

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

the county in which the hearing is being conducted, and the 196
court may order the witness to comply with the requirements of 197
the subpoena or to give testimony concerning the matter in 198
question. Failure to obey any order of the court may be punished 199
as a contempt of the court. 200

(3) Reports of any investigations or hearings, or parts 201
thereof, conducted by the department shall not be admitted in 202
evidence or used for any purpose in any action or proceeding 203
arising out of any matter referred to in the investigation, 204
hearings, or report thereof, except in actions or proceedings 205
instituted by the state or by the department on behalf of the 206
state, nor shall any member of the department or any of its 207
employees be required to testify to any facts ascertained in, or 208
information obtained by reason of, the member's or employee's 209
official capacity, or to testify as an expert witness in any 210
action or proceeding involving or pertaining to aviation to 211
which the state is not a party. Subject to this section, the 212
department may make available to appropriate agencies of 213
government any information and material developed in the course 214
of its investigations and hearings. 215

(E) The department shall report to the appropriate agency 216
of the United States all cases that come to its attention of 217
persons navigating aircraft without a valid aviator's 218
certificate, or in which an aircraft is navigated without a 219
valid air-worthiness certificate in probable violation of the 220
laws of the United States requiring such certificates, and it 221
also shall report to the proper governmental agency any probable 222
infringement or violation of laws, rules, and regulations 223
pertaining to aviation that come to its attention. 224

(F) The department may prepare, adopt, and subsequently 225

revise a plan showing the locations and types of airports, 226
landing fields, and other air navigation facilities within this 227
state; ~~it also may prepare another plan of a system of airways~~ 228
~~within this state, the establishment, maintenance, and use of~~ 229
~~which will, in its judgment, serve the development of~~ 230
~~transportation by aircraft within this state in the best~~ 231
~~interests of the public.~~ It may publish plans and pertinent 232
information as the public interest requires. 233

(G) The department periodically may prepare, publish, and 234
distribute such maps, charts, or other information as the public 235
interest requires, showing the location of and containing a 236
description of all airports, landing fields, and other air 237
navigation facilities then in operation in this state, together 238
with information concerning the manner in which, and the terms 239
upon which, those facilities may be used, and showing all 240
airways then in use, or recommended for use, within this state, 241
together with information concerning the manner in which the 242
facilities should be used. 243

Sec. 4561.08. (A) As used in this section and section 244
4561.09 of the Revised Code: 245

(1) "Airport activities" means the acquisition, 246
establishment, construction, enlargement, improvement, 247
equipment, protection of navigable airspace, or operation of 248
airports, heliports, vertiports, spaceports, landing fields, and 249
other air navigation facilities. 250

(2) "Local authority" means a regional airport authority, 251
port authority, public university or college airport, county, or 252
municipal corporation. 253

(B) The department of transportation may cooperate with 254

any ~~government agency, local authority~~ in the acquisition, 255
~~establishment, construction, enlargement, improvement,~~ 256
~~equipment, or operation of airports, landing fields, and other~~ 257
~~air navigation facilities conducting airport activities~~ in this 258
state, and may comply with the laws of the United States and any 259
regulations made thereunder with respect to the expenditure of 260
federal funds for or in connection with such ~~airports, landing~~ 261
~~fields, and other air navigation facilities~~activities. 262

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

discharge of its duties as such agent, the department may use 286
all its powers in the same manner as when acting for and ~~in~~on 287
behalf of the state. 288

(C) The department may approve or disapprove all 289
contracts, grants, and agreements for the ~~acquisition,~~ 290
~~establishment, construction, enlargement, improvement,~~ 291
~~equipment, or operation of airports, landing fields, and other~~ 292
~~air navigation facilities~~ conduct of airport activities insofar 293
as its rules require. 294

(D) The department may advise and cooperate with any 295
regional airport authority or political subdivision of this 296
state or of any other state, when it is acting jointly with a 297
regional airport authority or subdivision of this state, in all 298
matters pertaining to ~~the location, acquisition, establishment,~~ 299
~~construction, enlargement, improvement, equipment, or operation~~ 300
~~of airports, landing fields, and other air navigation~~ 301
~~facilities~~airport activities. 302

(E) All federal money accepted by the department pursuant 303
to ~~sections 4561.01 to 4561.151 of the Revised Code~~ this chapter 304
shall be deposited in the state treasury to the credit of the 305
highway operating fund. All such moneys shall be expended in 306
accordance with the terms imposed by the United States in making 307
the grants thereof. 308

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

~~equipment, or operation of airports, landing fields, and other~~ 316
~~air navigation facilities~~conduct of airport activities. 317

~~The board of trustees of a regional airport authority and~~ 318
~~the legislative body of each county or municipal corporation~~A 319
local authority may designate the department of transportation 320
as the agent of ~~such regional airport authority, county, or~~ 321
~~municipal corporation~~the local authority to accept, receive, 322
and give receipt for federal funds upon such terms as are 323
prescribed by the laws of the United States and any rules or 324
regulations made thereunder, and to treat similarly other funds, 325
public or private, for the ~~acquisition, establishment,~~ 326
~~construction, enlargement, improvement, equipment, or operation~~ 327
~~of airports, landing fields, and other air navigation~~ 328
~~facilities~~conduct of airport activities, whether such work is to 329
be done by the ~~regional airport authority, county, or municipal~~ 330
~~corporation~~local authority alone, or jointly with the state, or 331
jointly with the state and other counties or municipal 332
corporations. Such ~~board of trustees or legislative body~~local 333
authority may designate the department as its agent in any other 334
matter connected with the ~~acquisition, establishment,~~ 335
~~construction, enlargement, improvement, equipment, or operation~~ 336
~~of airports, landing fields, and other air navigation~~ 337
~~facilities~~conduct of airport activities, and may enter into, or 338
authorize the ~~executive department~~designee of such ~~political~~ 339
~~subdivision~~local authority to enter into, an agreement with the 340
department prescribing the terms of such agency, in accordance 341
with the laws of the United States and any rules or regulations 342
made thereunder. 343

All contracts and grants for the ~~acquisition,~~ 344
~~establishment, construction, enlargement, improvement,~~ 345
~~equipment, or operation of airports, landing fields, or other~~ 346

~~air navigation facilities airport activities~~ made by a ~~regional-~~ 347
~~airport authority, county, municipal corporation, local authority~~ 348
or agency of this state shall be made ~~pursuant to the~~ only for 349
public-use, publicly owned airports and shall comply with all 350
applicable state and federal laws of this state, rules, and 351
regulations governing the making of such contracts and grants; 352
~~provided that when the acquisition, establishment, construction,~~ 353
~~enlargement, improvement, equipment, or operation of airports,~~ 354
~~landing fields, or other air navigation facilities is financed~~ 355
~~wholly or partly with federal funds, the regional airport-~~ 356
~~authority, county, municipal corporation, or agency of this-~~ 357
state may let contracts in the manner prescribed by the federal 358
authorities acting under the laws of the United States and any 359
rules or regulations made thereunder. 360

Sec. 4561.11. (A) All publicly and privately owned 361
airports, landing fields, and landing areas, including those 362
located on public waters, shall be inspected and approved by the 363
department of transportation before being used for commercial 364
purposes. The department may issue a certificate of approval in 365
each case. ~~The~~ In accordance with Chapter 119. of the Revised 366
Code, the department shall ~~require that a complete plan of such-~~ 367
~~airport, landing field, or landing area~~ establish the documents 368
and information required to be filed with it ~~the~~ department 369
before ~~granting or issuing it will grant or issue~~ such approval; 370
provided that in no case in which the department licenses or 371
certifies for commercial operations an airport, landing field, 372
or landing area constructed, maintained, or supported, in whole 373
or in part, by public funds, under ~~sections 4561.01 to 4561.151-~~ 374
~~of the Revised Code~~ this chapter, shall the public be deprived of 375
the use thereof or its facilities for aviation purposes as fully 376
and equally as all other parties. 377

In any case in which the department rejects or disapproves 378
an application to commercially operate an airport, landing 379
field, or landing area, or in any case in which the department 380
issues an order requiring certain things to be done before 381
approval, it shall set forth its reasons therefor and shall 382
state the requirements to be met before such approval will be 383
given or such order modified or changed. In any case in which 384
the department considers it necessary, it may order the closing 385
of any airport, landing field, or landing area for commercial 386
purposes until the requirements of the order made by the 387
department are complied with. 388

Appeal from any action or decision of the department in 389
any such matter shall be made in accordance with sections 119.01 390
to 119.13 of the Revised Code. 391

~~The department shall require that any person engaged 392
within this state in operating aircraft, in any form of 393
navigation, shall be the holder of a currently effective 394
aviator's license issued by the civil aeronautics 395
administration. 396~~

~~The aviator's license required by this section shall be 397
kept in the personal possession of the pilot when the pilot is 398
operating aircraft within this state, and shall be presented for 399
inspection upon the request of any passenger, any authorized 400
representative of the department, or any official manager or 401
person in charge of any airport, landing field, or area in this 402
state upon which the pilot lands. 403~~

(B) Whoever violates this section shall be fined not more 404
than five hundred dollars, imprisoned not more than ninety days, 405
or both. 406

Sec. 4561.12. (A) Unless operated by the department of 407
transportation or its agents, no aircraft shall be operated ~~or~~ 408
~~maintained~~ on any public land or water owned or controlled by 409
this state, or by any political subdivision of this state, 410
except at such places and under such rules and regulations 411
governing and controlling the operation ~~and maintenance~~ of 412
aircraft as are adopted and ~~promulgated~~ amended by the 413
department in accordance with sections 119.01 to 119.13 of the 414
Revised Code. 415

Such action and approval by the department shall not 416
become effective until it has been approved by the adoption and 417
~~promulgation~~ amendment of appropriate rules governing, 418
controlling, and approving said places and the method of 419
operation ~~and maintenance~~ of aircraft, by the department, 420
division, political subdivision, agent, or agency of this state 421
having ownership or control of the places on said public land or 422
water which are affected by such operation ~~or maintenance~~ of 423
aircraft thereon. 424

(B) Whoever violates this section shall be fined not more 425
than five hundred dollars, imprisoned not more than ninety days, 426
or both. 427

Sec. 4561.14. (A) No person shall ~~operate~~ do any of the 428
following: 429

(1) Operate any civil aircraft in this state unless such 430
the person is the holder of a valid aviator's license pilot 431
certification or authorization issued by the United States. 432

~~No person operating an aircraft within this state shall~~ 433
~~fail~~ or a valid pilot certification or similar document issued 434
or validated by the country in which the aircraft is registered; 435

(2) Fail to exhibit such license the certification or 436
document for inspection upon the demand of any passenger on such 437
aircraft, or ~~fail to exhibit same for inspection~~ upon the demand 438
of any peace officer, member or employee of the department of 439
transportation, or manager or person in charge of an airport or 440
landing field within this state, prior to taking off or upon 441
landing said aircraft. 442

~~No person shall operate;~~ 443

(3) Operate an aircraft within this state unless such the 444
aircraft is licensed and registered by the United States; ~~this~~ 445
~~section is inapplicable. This division does not apply~~ to the 446
operation of military aircraft of the United States, aircraft of 447
a ~~state, territory,~~ or possession of the United States, or 448
aircraft licensed by a foreign country with which the United 449
States has a reciprocal agreement covering the operation of such 450
aircraft. 451

~~No person shall operate~~ (4) Operate an aircraft within 452
this state in violation of any air traffic rules in force under 453
the laws of the United States or under ~~sections 4561.01 to~~ 454
~~4561.14 of the Revised Code~~ this chapter, and the rules and 455
regulations of the department adopted pursuant thereto. 456

(B) Whoever violates this section shall be fined not more 457
than five hundred dollars, imprisoned not more than ninety days, 458
or both. 459

Sec. 4561.15. (A) No person shall commit any of the 460
following acts: 461

(1) Carry passengers in an aircraft unless the person 462
piloting the aircraft is a holder of a valid ~~airperson's air~~ 463
crew certificate of competency issued by the United States that 464

authorizes the holder to carry passengers and the person is 465
carrying any passenger in accordance with the applicable 466
certificate requirements; this division of this section is 467
inapplicable to the operation of military aircraft of the United 468
States, aircraft of a state, territory, or possession of the 469
United States, or aircraft licensed by a foreign country with 470
which the United States has a reciprocal agreement covering the 471
operation of such aircraft; 472

(2) Operate an aircraft on the land or water or in the air 473
space over this state in a careless or reckless manner that 474
endangers any person or property, or with willful or wanton 475
disregard for the rights or safety of others; 476

(3) Operate an aircraft on the land or water or in the air 477
space over this state while under the influence of intoxicating 478
liquor, controlled substances, or other habit-forming drugs; 479

(4) Tamper with, alter, destroy, remove, carry away, or 480
cause to be carried away any object used for the marking of 481
airports, landing fields, or other aeronautical facilities in 482
this state, or in any way change the position or location of 483
such markings, except by the direction of the proper authorities 484
charged with the maintenance and operation of such facilities, 485
or illegally possess any object used for such markings. 486

(B) Jurisdiction over any proceedings charging a violation 487
of this section is limited to courts of record. 488

(C) Whoever violates this section shall be fined not more 489
than five hundred dollars, imprisoned not more than six months, 490
or both. 491

Sec. 4561.31. ~~(A)(1)~~(A) Notwithstanding section 4561.01 of 492
the Revised Code, as used in sections 4561.31 to 4561.40 of the 493

Revised Code, "airport" means any airport issued a commercial 494
operating certificate and a medical use heliport. 495

(B) Except as provided in divisions ~~(D), (E),~~ and (F) of 496
this section, ~~no any person shall commence to that is required~~ 497
to file notice with the federal aviation administration under 14 498
C.F.R. part 77 before the person may install, erect, construct, 499
establish, or alter any structure or object of natural growth in 500
this state, any part of which will penetrate or is reasonably 501
expected to penetrate into or through any airport's clear zone 502
surface, horizontal surface, conical surface, primary surface, 503
approach surface, or transitional surface without first 504
obtaining also shall obtain a permit from the department of 505
transportation under section 4561.34 of the Revised Code. The 506
replacement of an existing structure or object of natural growth 507
with, respectively, a structure or object that is not more than 508
ten feet or twenty per cent higher than the height of the 509
existing structure or object, whichever is higher, does not 510
constitute commencing to install a structure or object, except 511
when any part of the structure or object will penetrate or is 512
reasonably expected to penetrate into or through any airport's 513
clear zone surface, horizontal surface, conical surface, primary 514
surface, approach surface, or transitional surface. Such 515
replacement of a like structure or object is not exempt from any 516
other requirements of state or local law. 517

~~(2) No person shall substantially change, as determined by~~ 518
~~the department, the height or location of any structure or~~ 519
~~object of natural growth in this state, any part of which, as a~~ 520
~~result of such change, will penetrate or is reasonably expected~~ 521
~~to penetrate into or through any airport's clear zone surface,~~ 522
~~horizontal surface, conical surface, primary surface, approach~~ 523
~~surface, or transitional surface, and for which installation had~~ 524

~~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.~~ 530
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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. 535
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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. 542
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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 from an airport zoning board ~~on or after October 15, 1991,~~ under Chapter 4563. of the Revised Code when both of the following apply: 548
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(1) The airport zoning board exists in the geographical 554
area of the proposed installation, erection, construction, 555
establishment, or alteration of the structure or object of 556
natural growth. 557

(2) The airport zoning board has adopted airport zoning 558
regulations pursuant to section 4563.032 of the Revised Code. 559

Any person required to apply for a permit from the airport 560
zoning board under this division is not required to apply for a 561
permit from the department under ~~sections 4561.30 to 4561.39 of~~ 562
~~the Revised Code, provided that the airport zoning board has~~ 563
~~adopted airport zoning regulations pursuant to section 4563.032~~ 564
~~of the Revised Code~~this chapter. 565

~~(E)~~(F) Any person who receives required to apply for a 566
certificate from the power siting board pursuant to section 567
4906.03 or 4906.10 of the Revised Code ~~on or after October 15,~~ 568
~~1991,~~ is not required to apply for a permit from the department 569
under ~~sections 4561.30 to 4561.39 of the Revised Code~~this 570
chapter. 571

~~(F) Any person who, in accordance with 14 C.F.R. 77.11 to~~ 572
~~77.19, notified the federal aviation administration prior to~~ 573
~~June 1, 1991, that the person proposes to construct, establish,~~ 574
~~substantially change, or substantially alter a structure or~~ 575
~~object of natural growth is not required to apply for a permit~~ 576
~~from the department under sections 4561.30 to 4561.39 of the~~ 577
~~Revised Code in connection with the construction, establishment,~~ 578
~~substantial change, or substantial alteration of the structure~~ 579
~~or object of natural growth either as originally proposed to the~~ 580
~~federal aviation administration or as altered as the person or~~ 581
~~the federal aviation administration considers necessary,~~ 582
~~provided that the federal aviation administration, pursuant to~~ 583

~~14 C.F.R. Part 77, does not determine that the proposed construction, establishment, substantial change, or substantial alteration of the structure or object of natural growth would be a hazard to air navigation.~~

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

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

Sec. 4561.32. (A) In accordance with Chapter 119. of the Revised Code, the department of transportation shall adopt, and may amend and rescind, any rules necessary to administer sections ~~4561.30~~4561.31 to ~~4561.39~~4561.40 of the Revised Code and shall adopt rules based in whole upon the obstruction standards set forth in 14 C.F.R. 77.21 to 77.29, as amended, to uniformly regulate the height and location of structures and objects of natural growth in any airport's clear zone surface, horizontal surface, conical surface, primary surface, approach surface, or transitional surface. The rules shall provide that the department, upon a determination that the height and location of a structure or object of natural growth, as set forth in the permit application, will be an obstruction, may grant a permit under section 4561.34 of the Revised Code that includes a waiver from full compliance with the obstruction standards found in 14 C.F.R. part 77. The rules shall ~~also~~ provide ~~that the department shall base its~~ what information shall be included in the department's decision on whether to grant such a waiver ~~on sound aeronautic principles, as set out in F.A.A. technical manuals, as amended, including advisory~~

~~circular 150/5300-13, "airport design standards"; 7400.2c,~~ 614
~~"airspace procedures handbook,"; and the U.S. terminal~~ 615
~~procedures handbook, including the results of any studies or~~ 616
~~investigations conducted and any federal aviation administration~~ 617
~~technical manuals, advisory circulars, airport design standards,~~ 618
~~airspace procedures, and the U.S. terminal procedures that were~~ 619
~~consulted.~~ 620

The consideration of safety shall be paramount to 621
considerations of economic or technical factors. In making a 622
determination under this division, the department may consider 623
findings and recommendations of other government entities and 624
interested persons concerning the proposed structure or object 625
of natural growth. However, those findings and recommendations 626
are not binding on the department. 627

(B) The department may conduct any studies or 628
investigations it considers necessary to carry out sections 629
~~4561.30~~4561.31 to ~~4561.39~~4561.40 of the Revised Code or may 630
enter into any contract for those services. 631

Sec. 4561.33. (A) An applicant for a permit required by 632
section 4561.31 of the Revised Code shall ~~file with the~~ 633
~~department of transportation an application made on forms the~~ 634
~~department prescribes, which shall contain the following~~ 635
~~information:~~ 636

~~(1) A description of the structure or object of natural~~ 637
~~growth for which the permit is sought, its location, and the~~ 638
~~planned date of commencement of installation;~~ 639

~~(2) A statement explaining the need for the structure or~~ 640
~~object;~~ 641

~~(3) A statement of the reasons why the proposed location~~ 642

~~is best suited for the structure or object,~~ 643

~~(4) Any additional information the applicant considers relevant or the department requires.~~ 644
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~~An application for an amended permit shall be in the form and contain the information the department prescribes.~~ 646
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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.~~ 648
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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.~~ 654
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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.~~ 658
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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 applicant before an application may be filed under this section.~~ 665
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~~(E) (C) If the department has reason to believe that any person has or is commencing to install, erect, construct, establish, or alter a structure or object of natural growth for which a permit appears to be required under section 4561.31 of~~ 668
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the Revised Code, but concerning which no application for a 672
permit under section 4561.34 of the Revised Code has been filed 673
or no permit issued, the department shall issue an order to such 674
person to appear before the department and show cause why a 675
permit need not be obtained. 676

Sec. 4561.34. (A) The department of transportation, 677
subject to Chapter 119. of the Revised Code, shall grant or deny 678
a permit or grant a permit with waiver from obstruction 679
standards for which an application has been filed under section 680
4561.33 of the Revised Code. In determining whether to grant or 681
deny a permit, the department shall ~~determine whether the height~~ 682
~~and location of a structure or object of natural growth, as set~~ 683
~~forth in the permit application, will be an obstruction to air~~ 684
~~navigation based upon the rules adopted under section 4561.32 of~~ 685
~~the Revised Code if installed as proposed. In the case of an~~ 686
~~application to substantially change an existing structure or~~ 687
~~object, the department shall determine whether the change in the~~ 688
~~height or location of the structure or object, as set forth in~~ 689
~~the application, will create such an obstruction. The~~ 690
~~consideration of safety shall be paramount to considerations of~~ 691
~~economic or technical factors. In making a determination under~~ 692
~~this division the department shall render its decision upon the~~ 693
~~record, but may consider findings and recommendations of other~~ 694
~~governmental entities and interested persons concerning the~~ 695
~~proposed structure or object; however, those findings and~~ 696
~~recommendations are not binding on the department~~conduct its own 697
study and review of the permit application concurrent with the 698
federal aviation administration's review. Not later than ninety 699
days after the federal aviation administration issues its final 700
determination, the department shall grant the permit, deny the 701
permit, or grant a permit with waiver from obstruction 702

standards. In making the department's decision, the department 703
shall do one of the following: 704

(1) If a federal aviation administration form 7460-1 was 705
filed, but the proposed installation, erection, construction, 706
establishment, or alteration does not meet the notification 707
standards under 14 C.F.R. part 77, the department shall issue a 708
written statement to the applicant that no permit is required. 709

(2) If the federal aviation administration issues a 710
determination of hazard, the department shall deny the permit. 711

(3) If the federal aviation administration issues a 712
determination of no hazard and the proposed installation, 713
erection, construction, establishment, or alteration will not be 714
an obstruction to the navigable airspace of an airport, the 715
department shall issue a permit. 716

(4) If the federal aviation administration issues a 717
determination of no hazard, but the proposed installation, 718
erection, construction, establishment, or alteration will be an 719
obstruction to the navigable airspace of an airport, the 720
department shall make a determination of whether to grant a 721
permit with waiver from obstruction standards pursuant to 722
section 4561.32 of the Revised Code or to deny the permit. Prior 723
to the department's determination, all of the following shall 724
occur: 725

(a) Not later than seven days after the receipt of the 726
federal aviation administration's final determination, the 727
department shall contact the airport sponsor and request a 728
written decision, on official letterhead, as to the federal 729
aviation administration's determination of no hazard. If the 730
airport sponsor objects to the determination of no hazard, the 731

airport sponsor within its written decision shall list the 732
specific aeronautical impacts the obstruction would have to its 733
facility or to the navigable airspace of the airport. The 734
decision also shall include any proposed conditions or 735
modifications that would allow the obstruction to exist in the 736
navigable airspace of the airport. 737

(b) The airport sponsor shall submit the written decision 738
to the department not later than sixty days after the federal 739
aviation administration's determination is final. 740

(c) Not later than five days after receipt of the airport 741
sponsor's written decision, the department shall forward that 742
written decision to the permit applicant. The permit applicant 743
may submit additional information to the department in response 744
to the airport sponsor's written decision not later than seven 745
days after receipt of the written decision. If submitted, the 746
department shall consider any additional information in making 747
its decision regarding the permit. 748

~~(B) The~~ If a permit is denied, the department may grant a 749
~~permit under this section subject to~~ shall indicate any 750
~~modification of~~ to the height or location of a structure or 751
~~object the department considers necessary. In the absence of~~ 752
~~such modification or unless it grants a waiver from compliance~~ 753
~~with the obstruction standards, the department shall deny a~~ 754
~~permit if it determines, in accordance with division (A) of this~~ 755
~~section, that a proposed structure or object or a change to an~~ 756
~~existing structure or object, as set forth in the application,~~ 757
~~would be an obstruction to air navigation based upon the rules~~ 758
~~adopted under section 4561.32 of the Revised Code~~ the proposed 759
installation, erection, construction, establishment, or 760
alteration that would allow the department to issue the permit. 761

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

Sec. 4561.341. Pursuant to any consultation with the power siting board regarding an application for certification under section 4906.03 or 4906.10 of the Revised Code, the office of aviation ~~of the division of multi-modal planning and programs~~ of the department of transportation shall review the application to determine whether the facility constitutes or will constitute an obstruction to air navigation based upon the rules adopted under section 4561.32 of the Revised Code. Upon review of the application, if the office determines that the facility constitutes or will constitute an obstruction ~~to air navigation,~~ it shall provide, in writing, this determination and either the terms, conditions, and modifications that are necessary for the applicant to eliminate the obstruction or a statement that compliance with the obstruction standards may be waived, to the power siting board under section 4906.03 or 4906.10 of the Revised Code, as appropriate.

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

(A) The terms and conditions regarding the height and

location of the structure or object of natural growth that the 792
department considers necessary to ensure the safety of aircraft 793
in landing or taking off at any airport, the safety of persons 794
occupying or using such area, and the security of property, 795
including any modifications to the height or location of the 796
structure or object of natural growth set forth in the permit 797
application. If the department modifies the location of all or 798
part of a proposed structure or object, it shall provide notice 799
of the relocation to the municipal corporation or township and 800
the county to which the structure or object is being relocated, 801
and the persons residing in the area of the relocation, by 802
whatever means the department considers appropriate. 803

(B) The obstruction markers, markings, lighting, or other 804
visual or aural identification, if any, that must be installed 805
on or in the vicinity of the structure or object of natural 806
growth as a condition of the permit. Any such identification 807
shall conform as much as practicable to federal guidelines and 808
standards. ~~As a condition of the permit, the department shall~~ 809
~~require that any required lighting be maintained in operable~~ 810
~~condition.~~ 811

Sec. 4561.36. (A) The department of transportation shall 812
not issue any permit under ~~sections 4561.30 to 4561.39 of the~~ 813
~~Revised Code~~ this chapter that will result in the creation of an 814
obstruction ~~to air navigation~~ based upon the rules adopted under 815
section 4561.32 of the Revised Code, unless the department 816
waives compliance with the obstruction standards included in 817
those rules. 818

(B) ~~Sections 4561.30 to 4561.39 of the Revised Code do~~ 819
This chapter does not authorize the department to restrict the 820
height or location of structures or objects of natural growth 821

under ~~those sections~~ the chapter for any reason other than to 822
ensure the safety of aircraft in landing and taking off at an 823
airport, the safety of persons occupying or using the area, and 824
the security of property. 825

Sec. 4561.37. ~~Sections 4561.30 to 4561.39 of the Revised~~ 826
~~Code~~ (A) (1) This chapter and the rules adopted under it shall 827
not be construed to require the removal or lowering of, or the 828
making of any other change ~~in to,~~ any structure or object of 829
natural growth ~~not conforming to rules or orders of the~~ 830
~~department of transportation under those sections when adopted~~ 831
~~or amended, or otherwise interfere with the continuance of any~~ 832
~~nonconforming use; except that, if ordered by the department,~~ 833
~~the~~ that was in existence prior to the original enactment of 834
this section on October 15, 1991, or for which a permit, a 835
written statement of no permit required, or a permit with waiver 836
from obstruction standards was issued by the department of 837
transportation. 838

(2) Division (A) (1) of this section does not apply if the 839
structure or object of natural growth was altered in a way that 840
is contrary to the terms and conditions of the issued permit. 841

(B) A structure or object of natural growth is subject to 842
the laws and rules that are effective as of the issue date of 843
the permit for the structure's or object of natural growth's 844
installation, erection, construction, establishment, or 845
alteration. However, any substantial change to the structure or 846
substantial growth to the object of natural growth is subject to 847
the laws and rules that are effective as of the date the 848
substantial change or growth occurs. 849

(C) The owner of a nonconforming structure or object that 850
is permanently out of service, or is partially dismantled, 851

destroyed, deteriorated, or decayed shall demolish or remove 852
that structure or object, ~~and, if.~~ If any nonconforming use is 853
voluntarily discontinued for two years or more, any future use 854
of the premises shall be in conformity with ~~sections 4561.30 to~~ 855
~~4561.39 of the Revised Code~~ this chapter. 856

Sec. 4561.38. With respect to any structure or object of 857
natural growth for which a permit is required under section 858
~~4561.34~~ 4561.31 of the Revised Code, rules adopted or orders 859
issued under ~~sections 4561.30 to 4561.39 of the Revised Code~~ 860
this chapter and the terms and conditions of any permit issued 861
under ~~those sections~~ it prevail in the event of a conflict with 862
any airport zoning regulation adopted under sections 4563.01 to 863
4563.21 of the Revised Code, any local regulation under section 864
4905.65 of the Revised Code, any zoning regulation otherwise 865
applicable to the structure or object, or the terms or 866
conditions of any permit issued under sections 4563.01 to 867
4563.21 of the Revised Code after ~~the effective date of this~~ 868
~~section~~ the effective date of this amendment. 869

Sec. 4561.39. In addition to any other remedy provided by 870
law, the department of transportation or an airport sponsor may 871
institute in any court of competent jurisdiction an action to 872
prevent, restrain, correct, or abate any alleged violation or 873
threatened violation of ~~sections 4561.30 to 4561.39 of the~~ 874
~~Revised Code~~ this chapter or any rule adopted or order issued 875
under ~~them~~ it. The court may grant such relief as may be 876
necessary. 877

Sec. 4561.40. The department of transportation and the 878
office of aviation are not liable for any damages caused by a 879
structure or object of natural growth that is an obstruction if 880
any of the following apply: 881

(A) The structure or object of natural growth was 882
installed, erected, constructed, established, or altered without 883
a permit issued under this chapter. 884

(B) A permit was issued under this chapter for the 885
structure or object of natural growth, but the structure or 886
object of natural growth was installed, erected, constructed, 887
established, altered, or allowed to grow in a manner that is not 888
in compliance with the terms and conditions of the permit. 889

(C) The structure or object of natural growth was 890
installed, erected, constructed, established, or altered 891
pursuant to a certificate issued by the power siting board 892
pursuant to section 4906.03 or 4906.10 of the Revised Code. 893

(D) The structure or object of natural growth was 894
installed, erected, constructed, established, or altered 895
pursuant to a permit issued by an airport zoning board pursuant 896
to Chapter 4563. of the Revised Code. 897

Sec. 4561.99. Whoever violates any provision of ~~sections~~ 898
~~4561.021 to 4561.13 of the Revised Code~~ this chapter for which 899
no penalty otherwise is provided in the section that contains 900
the provision violated shall be fined not more than five hundred 901
dollars, imprisoned not more than ninety days, or both. 902

Sec. 4563.01. As used in ~~sections 4563.01 to 4563.21 of~~ 903
~~the Revised Code~~ this chapter: 904

(A) "Airport" means any area of land or water designed and 905
set aside for the landing and taking off of aircraft, and for 906
that purpose possessing one or more hard surfaced runways of a 907
length of not less than ~~three one~~ thousand ~~five eight~~ hundred 908
feet, and designed for the storing, repair, and operation of 909
aircraft, and utilized or to be utilized in the interest of the 910

public for such purposes, and any area of land designed for such 911
purposes for which designs, plans, and specifications conforming 912
to the above requirements have been approved by the office of 913
aviation ~~of the division of multi-modal planning and programs~~ of 914
the department of transportation and for which not less than 915
seventy per cent of the area shown by such designs and plans to 916
constitute the total area has been acquired. An airport is 917
"publicly owned" if the portion thereof used for the landing and 918
taking off of aircraft is owned, operated, leased to, or leased 919
by the United States, any agency or department thereof, this 920
state or any other state, or any political subdivision of this 921
state or any other state, or any other governmental body, public 922
agency, or public corporation, or any combination thereof. 923

(B) "Airport hazard" means any structure or object of 924
natural growth or use of land within an airport hazard area that 925
obstructs the ~~air space~~ airspace required for the flight of 926
aircraft in landing or taking off at any airport or is otherwise 927
hazardous to ~~such landing or taking off of aircraft~~ air 928
navigation. 929

(C) "Airport hazard area" means any area of land adjacent 930
to an airport that has been declared to be an "airport hazard 931
area" ~~by the office of aviation in connection with any airport~~ 932
~~approach plan recommended by the office~~ as depicted on an 933
approved airport approach plan. 934

(D) "Political subdivision" means any municipal 935
corporation, township, or county. 936

(E) "Person" means any individual, firm, 937
~~co~~ partnership, partnership, corporation, company, association, 938
joint stock association, or body politic and includes any 939
trustee, receiver, assignee, or other similar representative 940

thereof. 941

(F) "Structure" ~~means any erected object, including,~~ 942
~~without limitation, buildings, towers, smokestacks, and overhead~~ 943
~~transmission lines~~ has the same meaning as in section 4561.01 of 944
the Revised Code. 945

(G) "Navigable airspace" has the same meaning as in 946
section 4561.01 of the Revised Code. 947

Sec. 4563.03. (A) When an airport is publicly owned and 948
all airport hazard areas appertaining to such airport are 949
located inside the territorial limits of one political 950
subdivision, the legislative authority of the political 951
subdivision shall constitute the airport zoning board. Such 952
legislative authority, acting as the airport zoning board, may 953
adopt, administer, and enforce airport zoning regulations for 954
such airport hazard area. Airport zoning regulations may divide 955
an airport hazard area into zones, and, within such zones, 956
regulate and restrict land uses which by their nature constitute 957
airport hazards, and regulate and restrict the height to which 958
structures may be erected or objects of natural growth may be 959
allowed to grow. ~~An obstruction of air space in an airport~~ 960
~~hazard area rising to a height not in excess of forty feet above~~ 961
~~the established elevation of the airport, or three feet for each~~ 962
~~one hundred feet or fraction thereof its location is distant~~ 963
~~from the nearest point in the perimeter of the airport,~~ 964
~~whichever is greater, shall be prima facie reasonable.~~ 965

(B) When an airport is publicly owned and any airport 966
hazard area appertaining to such airport is located in more than 967
one political subdivision, the board of county commissioners of 968
each county in which such airport or such airport hazard area 969
may exist, shall constitute the airport zoning board, which 970

shall have the same power to adopt, administer, and enforce 971
airport zoning regulations as provided in division (A) of this 972
section. The board shall elect its own ~~chairman~~ chairperson. 973

Sec. 4563.031. Within the approach, transitional, ~~inner-~~ 974
horizontal, and conical areas at a publicly owned airport, an 975
airport zoning board constituted under section 4563.03 of the 976
Revised Code may adopt, administer, and enforce zoning 977
regulations, in addition to its regulations adopted under 978
section 4563.03 of the Revised Code, in order to ensure the 979
safety of the navigable airspace, persons occupying or using 980
such areas, and the security of property located within such 981
areas. Airport zoning regulations may divide such approach, 982
transitional, ~~inner-~~horizontal, and conical areas into zones, 983
and within such zones, regulate and restrict land use in order 984
to minimize injury, loss of life, and hazards to the safety of 985
persons or to the security of property within such zones, and 986
may include regulations governing population density and 987
concentration of persons within such zones. 988

Prior to initial zoning under this section, the procedures 989
set forth in sections 4563.05, 4563.06, and 4563.08 of the 990
Revised Code for establishing the boundaries of the various 991
zones and adopting the regulations therefor, shall be followed. 992
"Approach area," "transitional area," "~~inner-~~horizontal area," 993
or "conical area," respectively, means any area of land adjacent 994
to an airport and within an airport hazard area, which has been 995
declared to be an "approach area," "transitional area," "~~inner-~~ 996
horizontal area," or "conical area" by the office of aviation, 997
based upon the approach plan for the airport. No zone 998
established under this section may include any area outside such 999
approach, transitional, ~~inner-~~horizontal, and conical areas. 1000

Sec. 4563.032. Any airport zoning board that adopts, 1001
administers, and enforces airport zoning regulations for an 1002
airport hazard area under section 4563.03 of the Revised Code 1003
shall adopt, as minimum regulations, the rules adopted by the 1004
department of transportation under section 4561.32 of the 1005
Revised Code ~~that are based in whole upon the obstruction-~~ 1006
~~standards set forth in 14 C.F.R. 77.21 to 77.29, as amended, in~~ 1007
order to uniformly regulate the height and location of 1008
structures and objects of natural growth ~~in any airport's clear-~~ 1009
~~zone surface, horizontal surface, conical surface, primary-~~ 1010
~~surface, approach surface, or transitional surface~~pursuant to 1011
section 4563.031 of the Revised Code. 1012

Sec. 4563.04. In the event of conflict between any airport 1013
zoning regulations adopted under ~~sections 4563.01 to 4563.21,~~ 1014
~~inclusive, of the Revised Code~~this chapter, and any other zoning 1015
regulations applicable to the same area, whether the conflict be 1016
with respect to the height of structures or objects of natural 1017
growth, the use of land, or any other matter, and whether such 1018
other regulations were adopted by the political subdivision 1019
which adopted the airport zoning regulations or by some other 1020
political subdivision, the limitation or requirement best 1021
calculated to ~~insure~~ensure safety shall govern. 1022

Sec. 4563.05. Prior to initial zoning of any airport 1023
hazard area under ~~sections 4563.01 to 4563.21, inclusive, of the~~ 1024
~~Revised Code~~this chapter, the airport zoning board which is to 1025
adopt the regulations shall appoint a commission, to be known as 1026
the airport zoning commission, to recommend the boundaries of 1027
the various zones to be established and the regulations to be 1028
adopted therefor. Such commission shall make a preliminary 1029
report and hold public hearings thereon before submitting its 1030
final report, and the airport zoning board shall not hold its 1031

public hearings or take other action until it has received the 1032
final report of such commission. Where a city planning 1033
commission, township zoning commission, or county rural zoning 1034
commission already exists, it may be appointed as the airport 1035
zoning commission. 1036

Sec. 4563.06. No airport zoning regulations shall be 1037
adopted, amended, or changed under ~~sections 4563.01 to 4563.21,~~ 1038
~~inclusive, of the Revised Code~~this chapter, except by action of 1039
the legislative body of the political subdivision, after a 1040
public hearing in relation thereto, at which parties in interest 1041
and citizens shall have an opportunity to be heard. At least 1042
thirty days notice of the hearing shall be published in a 1043
newspaper of general circulation in the political subdivision in 1044
which the airport hazard area to be zoned is located. 1045

Sec. 4563.07. All airport zoning regulations adopted under 1046
~~sections 4563.01 to 4563.21, inclusive, of the Revised Code~~this 1047
chapter shall be reasonable, and none shall impose any 1048
requirement or restriction which is not reasonably necessary to 1049
~~insure~~ensure the safety of aircraft in landing and taking off 1050
~~and air navigation,~~ the safety of persons occupying or using the 1051
area, and the security of property thereon. In determining what 1052
regulations are necessary, each political subdivision or airport 1053
zoning board shall consider, among other things, the character 1054
of the flying operations expected to be conducted at the 1055
airport, the per cent of slope or grade customarily used in 1056
descent or ascent of the aircraft expected to use the airport 1057
with reference to their size, speed, and type, the nature of the 1058
terrain within the airport hazard area, the character of the 1059
neighborhood, and the uses to which the property to be zoned is 1060
put or is adaptable. 1061

Sec. 4563.08. In order to define and determine the airport 1062
hazard area in which airport zoning shall be applicable, the 1063
office of aviation, upon request of any airport zoning 1064
commission appointed pursuant to section 4563.05 of the Revised 1065
Code, shall ~~formulate and adopt, and may revise when~~ 1066
~~necessary,~~ review and approve an airport approach plan for any 1067
airport within its jurisdiction. ~~Each~~ The airport zoning 1068
commission shall develop the plan. The plan shall indicate the 1069
airport hazard area, the circumstances under which structures, 1070
objects of natural growth, public highways, and certain uses of 1071
land would be airport hazards, and the height limits of 1072
structures and objects of natural growth, and what other 1073
restrictions should be contained in the airport zoning 1074
regulations. In ~~adopting or revising~~ developing the plan, the 1075
~~office~~ airport zoning commission shall consider, among other 1076
things, the size, type, and speed of aircraft expected to use 1077
the airport, the character of the flying operations expected to 1078
be conducted at the airport, the traffic pattern and regulations 1079
affecting flying operations at the airport, the location of 1080
public highways, the nature of the terrain, the height of 1081
existing structures and objects of natural growth above the 1082
level of the airport, and the possibility of lowering or 1083
removing existing obstructions. ~~The office~~ airport zoning 1084
commission may obtain and consider information from and the 1085
opinion of any agency of the federal government charged with the 1086
promotion, regulation, or control of civil aeronautics as to the 1087
approaches necessary to safe flying operations at the airport. 1088

Sec. 4563.09. No airport zoning regulations adopted under 1089
~~sections 4563.01 to 4563.21 of the Revised Code~~ this chapter 1090
shall require the removal, lowering, or other change or 1091
alteration of any structure or object of natural growth not 1092

conforming to the regulations ~~when adopted or amended on or~~ 1093
before January 1, 2004, or otherwise interfere with the 1094
continuance of any nonconforming use, except as provided in 1095
section 4563.14 of the Revised Code. 1096

Sec. 4563.10. Nothing in ~~sections 4563.01 to 4563.21 of~~ 1097
~~the Revised Code,~~ this chapter shall confer any power on any 1098
political subdivision or airport zoning board to prohibit the 1099
use of any land for farming, dairying, pasturage, apiculture, 1100
horticulture, floriculture, viticulture, or animal and poultry 1101
husbandry, except where such use shall create an airport hazard. 1102
The provisions of ~~sections 4563.01 to 4563.21 of the Revised~~ 1103
~~Code~~ this chapter shall not apply in respect to the location, 1104
relocation, erection, construction, reconstruction, change, 1105
alteration, maintenance, removal, use, or enlargement of any 1106
buildings or structures, now existing or constructed in the 1107
future, of any public utility or railroad. 1108

Sec. 4563.11. All airport zoning regulations adopted under 1109
~~sections 4563.01 to 4563.21, inclusive, of the Revised Code,~~ this 1110
chapter shall provide for the administration and enforcement of 1111
such regulations. The duties of any administrative agency 1112
designated pursuant to ~~sections 4563.01 to 4563.21, inclusive,~~ 1113
~~of the Revised Code,~~ this chapter shall include that of issuing 1114
all permits under section 4563.12 of the Revised Code. 1115

Sec. 4563.12. Airport zoning regulations adopted under 1116
~~sections 4563.01 to 4563.21, inclusive, of the Revised Code,~~ this 1117
chapter may require that a permit be obtained before any new 1118
structure or use may be constructed or established and before 1119
any existing structure or use may be substantially changed or 1120
substantially altered in an airport hazard area. No permit shall 1121
be granted that would allow the establishment or creation of an 1122

airport hazard, or permit a nonconforming structure to be made 1123
higher or a nonconforming object of natural growth to become 1124
higher or become a greater hazard to air navigation than it was 1125
when the applicable regulations were adopted or than it is when 1126
the application for a permit is made. If any nonconforming use 1127
is voluntarily discontinued for two years or more, any future 1128
use of the premises shall be in conformity with ~~sections 4563.01~~ 1129
~~to 4563.21, inclusive, of the Revised Code~~this chapter. 1130

Sec. 4563.13. All airport zoning regulations adopted under 1131
~~sections 4563.01 to 4563.21, inclusive, of the Revised Code~~this 1132
chapter shall provide for an airport zoning board of appeals. 1133
Where a zoning board of appeals already exists, it may be 1134
designated as the airport zoning board of appeals. The airport 1135
zoning board of appeals, except in those instances in which an 1136
existing zoning board of appeals is designated as the airport 1137
zoning board of appeals, shall consist of five members, each to 1138
be appointed for a term of three years by the authority adopting 1139
the regulations and subject to removal by the appointing 1140
authority for cause upon written charges and after public 1141
hearing. The first members of such board of appeals shall be so 1142
designated that two shall serve for one year, two shall serve 1143
for two years, and one shall serve for three years. 1144

Sec. 4563.16. Any person desiring to erect any structure, 1145
or increase the height of any structure, or permit the increases 1146
in height of any object of natural growth, or otherwise use ~~his~~ 1147
the person's property in any manner in conflict with airport 1148
zoning regulations adopted under ~~sections 4563.01 to 4563.21,~~ 1149
~~inclusive, of the Revised Code~~this chapter, may apply to the 1150
airport zoning board of appeals for a variance from the zoning 1151
regulations in question. Such variance shall be allowed where a 1152
literal application or enforcement of the regulations would 1153

result in unnecessary hardship and the relief granted would not 1154
be contrary to the public interest or create conditions 1155
dangerous to the safety of aircraft using the airport or the 1156
navigable airspace of an airport, but would do substantial 1157
justice and would not be in conflict with factors set down for 1158
consideration in ~~sections 4563.07 and 4563.08 of the Revised~~ 1159
~~Code~~ this chapter. The board of appeals may subject any variance 1160
to any reasonable conditions that ~~they deem~~ it considers 1161
necessary. 1162

Sec. 4563.18. (A) ~~Any person aggrieved by any~~ Either of 1163
the following may appeal a decision of an administrative agency 1164
made in its administration of airport zoning regulations adopted 1165
under ~~sections 4563.01 to 4563.21, inclusive, of the Revised~~ 1166
~~Code, or any~~ this chapter: 1167

(1) Any person aggrieved by the decision; 1168

(2) Any governing body of a political subdivision or any 1169
airport zoning board ~~which is of the opinion that a~~ that 1170
considers the administrative agency's decision of such an 1171
~~administrative agency is an improper application of airport~~ 1172
~~zoning regulations of concern to such governing body or board,~~ 1173
~~may.~~ 1174

The appeal shall be made to the airport zoning board of 1175
appeals authorized to hear and decide appeals from the decisions 1176
of ~~such the~~ administrative agency. 1177

(B) All appeals taken under this section shall be taken 1178
within twenty days after an order is filed in the office of the 1179
administrative agency, as provided by the rules of the airport 1180
zoning board of appeals, by filing ~~with the administrative~~ 1181
~~agency from which the appeal is taken and with the airport~~ 1182

~~zoning board of appeals~~ a notice of appeal specifying the 1183
grounds of such appeal. The notice of appeal shall be filed with 1184
the administrative agency from which the appeal is taken and 1185
with the airport zoning board of appeals. The administrative 1186
agency from which the appeal is taken shall transmit to the 1187
airport zoning board of appeals all the papers constituting the 1188
record upon which the action appealed from was taken. 1189

(C) An appeal shall stay all proceedings in furtherance of 1190
the action appealed from unless the administrative agency from 1191
which the appeal is taken certifies to the airport zoning board 1192
of appeals, after the notice of appeal has been filed with it, 1193
that by reason of the facts stated in the certificate a stay 1194
would, in its opinion, cause imminent peril to life or property. 1195
In such cases proceedings shall not be stayed other than by 1196
order of the airport zoning board of appeals on notice of the 1197
agency from which the appeal is taken and on due notice to the 1198
parties in interest. 1199

(D) The airport zoning board of appeals shall fix a 1200
reasonable time for the hearing of appeals, give public notice 1201
and due notice to the parties in interest, and decide the same 1202
within a reasonable time. Upon the hearing any party may appear 1203
in person, by agent, or by attorney. 1204

(E) The airport zoning board of appeals, in conformity 1205
with ~~sections 4563.01 to 4563.21, inclusive, of the Revised~~ 1206
~~Codethis chapter~~, may reverse, affirm wholly or partly, or 1207
modify, the order, requirement, decision, or determination 1208
appealed from. 1209

Sec. 4563.20. (A) No person shall violate any regulation, 1210
order, or ruling promulgated or made pursuant to ~~sections~~ 1211
~~4563.01 to 4563.21 of the Revised Codethis chapter.~~ 1212

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

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

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

The board shall not grant a certificate for the 1244
construction, operation, and maintenance of a major utility 1245
facility, either as proposed or as modified by the board, unless 1246
it finds and determines all of the following: 1247

(1) The basis of the need for the facility if the facility 1248
is an electric transmission line or gas pipeline; 1249

(2) The nature of the probable environmental impact; 1250

(3) That the facility represents the minimum adverse 1251
environmental impact, considering the state of available 1252
technology and the nature and economics of the various 1253
alternatives, and other pertinent considerations; 1254

(4) In the case of an electric transmission line or 1255
generating facility, that the facility is consistent with 1256
regional plans for expansion of the electric power grid of the 1257
electric systems serving this state and interconnected utility 1258
systems and that the facility will serve the interests of 1259
electric system economy and reliability; 1260

(5) That the facility will comply with Chapters 3704., 1261
3734., and 6111. of the Revised Code and all rules and standards 1262
adopted under those chapters and under section 4561.32 of the 1263
Revised Code. In determining whether the facility will comply 1264
with all rules and standards adopted under section 4561.32 of 1265
the Revised Code, the board shall consult with the office of 1266
~~aviation of the division of multi-modal planning and programs of~~ 1267
the department of transportation under section 4561.341 of the 1268
Revised Code. 1269

(6) That the facility will serve the public interest, 1270
convenience, and necessity; 1271

(7) In addition to the provisions contained in divisions 1272

(A) (1) to (6) of this section and rules adopted under those 1273
divisions, what its impact will be on the viability as 1274
agricultural land of any land in an existing agricultural 1275
district established under Chapter 929. of the Revised Code that 1276
is located within the site and alternative site of the proposed 1277
major utility facility. Rules adopted to evaluate impact under 1278
division (A) (7) of this section shall not require the 1279
compilation, creation, submission, or production of any 1280
information, document, or other data pertaining to land not 1281
located within the site and alternative site. 1282

(8) That the facility incorporates maximum feasible water 1283
conservation practices as determined by the board, considering 1284
available technology and the nature and economics of the various 1285
alternatives. 1286

(B) If the board determines that the location of all or a 1287
part of the proposed facility should be modified, it may 1288
condition its certificate upon that modification, provided that 1289
the municipal corporations and counties, and persons residing 1290
therein, affected by the modification shall have been given 1291
reasonable notice thereof. 1292

(C) A copy of the decision and any opinion issued 1293
therewith shall be served upon each party. 1294

Section 2. That existing sections 4561.01, 4561.021, 1295
4561.05, 4561.06, 4561.08, 4561.09, 4561.11, 4561.12, 4561.14, 1296
4561.15, 4561.31, 4561.32, 4561.33, 4561.34, 4561.341, 4561.35, 1297
4561.36, 4561.37, 4561.38, 4561.39, 4561.99, 4563.01, 4563.03, 1298
4563.031, 4563.032, 4563.04, 4563.05, 4563.06, 4563.07, 4563.08, 1299
4563.09, 4563.10, 4563.11, 4563.12, 4563.13, 4563.16, 4563.18, 1300
4563.20, 4563.21, and 4906.10 of the Revised Code are hereby 1301
repealed. 1302

Section 3. That section 4561.30 of the Revised Code is	1303
hereby repealed.	1304
Section 4. This act shall be known as the Airspace	1305
Protection Act.	1306