

Gregory K. Zeuthen

Attorney at Law, P.C.

The 1515 Building
1515 SW Fifth Avenue
Suite 808
Portland, OR 97201

Ph: (503) 227-7257

Fax: (503) 228-1556

Email:
gkz@zlawoffice.com

April 11, 2013

Vote No on HB 2016
Testimony of Greg Zeuthen

Chair Read and members of the Committee, my name is Greg Zeuthen and I am here today to voice opposition to House Bill 2016.

I live in Washington County and have a small law practice in downtown Portland. I am a long standing member of the Oregon Trial Lawyers Association. This is my first time testifying before a legislative committee.

Today I want to address a passion of mine: Flying. I am a private pilot and I am in my airplane every chance I get. I fly approximately 50 to 60 hours a year which means on average at least one flight every other week. I now fly out of the Hillsboro airport and consider myself a safe pilot.

My concerns with HB 2016 relate to safety. If passed, this bill would compromise the safety of pilots, their passengers and those on the ground.

As a pilot, I make certain safety assumptions about the airports that I fly in and out of. One of those assumptions is that the airport and its surrounding environment are well-maintained for the safety of general aviation and the public. When landing an airplane, I assume that the runway, whether it's grass, gravel or asphalt, is sufficiently maintained without any hazards that would affect my ability to land my aircraft with passengers in a safe manner. This bill eliminates a very important incentive for landowners to properly maintain their property. If land owners fail to maintain their runway and I damage my aircraft, or a passenger is injured during landing, because of a problem with the runway--a problem the landowner knows about but chooses to ignore--this bill would prevent me or my passenger from holding them accountable for their negligence.

Another assumption a pilot makes is that the airport is appropriately dedicated as an airport and not used for any other incompatible purpose. This bill, as written, compromises the safety of the public in the airport environment. Once property is opened to the flying public and defined as recreational for immunity purposes, it must be opened to all other types of public uses in order for the immunity to apply. In other words, you can't simply restrict the recreational use of a property to aviation. All recreational uses must be allowed.

How will a pilot know whether campers or children are within the airport environment when landing? Many general aviation aircraft land at speeds between 70 and 90 miles an hour. In order for the landowner to have

immunity under this bill, the airport must be open to the general, non-flying public for purposes that are inconsistent with general aviation.

As a pilot, I do not want to fly into an airport and discover a family is having a picnic on the runway. It would be as if Interstate 5 was open to pedestrians.

My final concern with the bill is the use of the phrase "non-commercial aviation activities." As a pilot, the word "commercial" is a term of art within the FAA statutes and regulations. This statute, as written, seemingly adopts federal terminology and incorporates this definition without explicitly saying so. Does the immunity afforded under this statute depend on whether the occupants of the aircraft are paying the pilot -- thus making it a commercial flight -- or whether it is simply a private pilot on a sight-seeing trip? The landowner has no immunity if there is a "commercial" relationship among the occupants of the aircraft. For example, if I were to pay my friend, Shannon, who is a commercial pilot, to fly me to a private airport, the land owner would have no immunity under this statute because Shannon was exercising his privileges as a "commercial" pilot.

On the other hand, if my friend Shannon gratuitously flies me to the airport, and the improperly maintained airport causes harm, there is immunity. Immunity granted by this statute is dependent on a business relationship, or lack thereof, of the occupants of the airplane. This is absurd.

Even more absurd is that the responsibility of the landowner to those on the ground is entirely dependent on the business relationship, if any, of those in the airplane. Thus, an injured child may or may not hold the landowner accountable because the pilot and his passengers did, or did not, have a business relationship.

Over the past two decades, general aviation and commercial aviation has become safer because of the dedication of the FAA, state and local officials, and because of pilots dedicated to safety, like me and other safety minded aviators. As currently worded, this bill is flawed and is a step in the wrong direction. I strongly recommend opposition to HB 2016.