



Oregon

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The Honorable Senator Lee Beyer, Chair
The Honorable Bruce Starr, Vice Chair
Senate Committee on Business and Transportation
900 Court St NE
Salem OR 97301-4048

SUBJECT: Written Testimony on SB 178; Civil Penalty Authority

Dear Chair Beyer and Vice Chair Starr,
I respectfully submit the following document as my written testimony in support of SB 178.

Introduction:

ODA's Mission is to support Oregon communities by preserving and enhancing aviation safety, infrastructure, and development. This legislation will enable the agency to enforce existing statutes and rules by providing authority to impose civil penalties.

What this bill will do:

ODA currently has citation authority for provisions of ORS Chapter 837. The director or his representative must witness an offense to take enforcement action. As ODA manages 28 airports statewide, it would only be by chance that an ODA staff member with citation authority would be in position to witness a violation. This bill will allow ODA Director or designated representative to use the Administrative Procedures Act (ORS 183.745) to enforce laws and rules without being present as witnesses but with substantial proof of violation. This enforcement authority is necessary to ensure compliance on safety related issues. It will also allow the agency to use the "teeth" of enforcement to ensure that the agency has the tools to keep airports safe and necessary to ensure maximum revenue for aircraft, pilot and airport registration. This agency has had a number of safety related incidents in past two years that this bill would help to deter. Three examples are below.

- Aircraft landed in infield grass area between runway and taxiway grass area at Aurora State Airport while Aviation staff were cutting grass in the same area. This created an unsafe environment for the staff cutting grass. Infield grass area is a prohibited landing area at Aurora per OAR 738-050-0020.
- In 2012, ODA closed Chiloquin State Airport for major runway renovation. Despite large closure X's on the ends of the runway, three different aircraft landed there anyway in the first week of closure. One aircraft was damaged to the point it could not depart and had to be repaired at the airport. The pilots were not injured.
- In late 2012, Chiloquin State Airport was closed due to excessive snow. Closure was promulgated by issuing a NOTICE to Airmen (NOTAM) via FAA Flight Services. A pilot landed in 18 inches of snow and flipped his aircraft when the snow impeded the wheels. The

aircraft was damaged and the new runway pavement was damaged by the propeller. The pilot was uninjured.

Application of bill:

ODA intends to use this legislation as a last resort when all other remedies have been exhausted. The preferred options are education, letters, phone calls and directed literature to aviation customers prior to use of civil penalties.

Sample of Proposed Enforceable Offenses:

ORS 837.015, 837.040 and ORS 837.060; Requires all persons to register an aircraft based and operated in Oregon in the state.

ORS 837.025; Requires all persons residing in Oregon with FAA pilot license operating within the state as a pilot to register.

ORS 837.075; Any dealer in new or used aircraft... shall apply to ODA for Dealer's license

ORS 837.080; Prohibited operations of aircraft

- a.) while under influence of intoxicating liquor, drugs or controlled substance
- b.) In a careless or reckless manner so as to endanger life or property of another

ORS 837.085; Dropping articles from aircraft without a permit

ORS 837.090; Landing on public highway and grounds... except in emergency

Implementation:

Legislative approval of SB 178 will be accompanied by:

- Training of designated personnel for enforcement.
- Education campaign to make aviation community aware of violation and civil penalties.
- ODA will implement an amnesty period for education prior to enforcing compliance.

Fiscal Impact:

This is not designed to generate revenue and will have no fiscal impact. The intention is to use SB 178 as a compliance and enforcement tool for existing regulations. No additional personnel will be required.

Recommendation:

Recommend legislative approval of this bill.

Respectfully,

Mitch Swecker, Director
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