

**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) "Heliport" 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~~ 584  
~~construction, establishment, substantial change, or substantial~~ 585  
~~alteration of the structure or object of natural growth would be~~ 586  
~~a hazard to air navigation.~~ 587

(G) (1) Whoever violates division ~~(A) (1) or (2)~~ (B) of this 588  
section is guilty of a misdemeanor of the third degree. Each day 589  
of violation constitutes a separate offense. 590

(2) Whoever violates division ~~(A) (3) or (B)~~ (C) of this 591  
section is guilty of a misdemeanor of the first degree. Each day 592  
of violation constitutes a separate offense. 593

**Sec. 4561.32.** (A) In accordance with Chapter 119. of the 594  
Revised Code, the department of transportation shall adopt, and 595  
may amend and rescind, any rules necessary to administer 596  
sections ~~4561.30~~4561.31 to ~~4561.39~~4561.40 of the Revised Code 597  
~~and shall adopt rules based in whole upon the obstruction~~ 598  
~~standards set forth in 14 C.F.R. 77.21 to 77.29, as amended, to~~ 599  
~~uniformly regulate the height and location of structures and~~ 600  
~~objects of natural growth in any airport's clear zone surface,~~ 601  
~~horizontal surface, conical surface, primary surface, approach~~ 602  
~~surface, or transitional surface. The rules shall provide that~~ 603  
~~the department, upon a determination that the height and~~ 604  
~~location of a structure or object of natural growth, as set~~ 605  
~~forth in the permit application, will be an obstruction, may~~ 606  
grant a permit under section 4561.34 of the Revised Code that 607  
includes a waiver from full compliance with the obstruction 608  
standards found in 14 C.F.R. part 77. The rules shall ~~also~~ 609  
~~provide that the department shall base its what information~~ 610  
shall be included in the department's decision on whether to 611  
~~grant such a waiver on sound aeronautic principles, as set out~~ 612  
~~in F.A.A. technical manuals, as amended, including advisory~~ 613

~~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

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hereby repealed.	1304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