

1 H.344

2 Introduced by Representatives Savage of Swanton and Gamache of Swanton

3 Referred to Committee on

4 Date:

5 Subject: Aeronautics; airports; zoning

6 Statement of purpose of bill as introduced: This bill proposes to:

7 (1) amend the definition of “airport hazard area” to encompass a zone  
8 within 10 nautical miles of any public use airport;

9 (2) define “public use airport”, and

10 (3) prohibit the construction or alteration of structures of specified  
11 heights that lie within airport hazard areas or on military training routes, that  
12 are found by the Federal Aviation Administration to be an obstruction to air  
13 navigation, or that would interfere with specified airport functions.

14 An act relating to airport hazard areas and construction or alteration of  
15 structures

16 It is hereby enacted by the General Assembly of the State of Vermont:

17 Sec. 1. 5 V.S.A. § 1001 is amended to read:

18 § 1001. FINDINGS AND SHORT TITLE

19 (a) The General Assembly finds and declares that it is in the public interest  
20 to provide for the orderly development of each public use airport in this State

1 and the areas surrounding these airports. It is the purpose of this chapter to  
2 protect public health, safety, and welfare by ensuring the orderly expansion of  
3 airports and the adoption of land use measures that minimize the public's  
4 exposure to excessive noise and safety hazards within areas surrounding  
5 airports to the extent that these areas are not already devoted to existing  
6 nonconforming uses; to prevent the creation of new noise and safety hazards;  
7 and to authorize the adoption of reasonable and necessary airport zoning  
8 regulations to effectuate these purposes.

9 (b) This chapter shall be known and may be cited as the "Airport  
10 Zoning Act."

11 Sec. 2. 5 V.S.A. § 202 is amended to read:

12 § 202. DEFINITIONS

13 \* \* \*

14 (13) "Airport hazard area" means any area of land or water within  
15 10 nautical miles of any public use airport upon which an airport hazard might  
16 be established if not prevented as provided in this Part.

17 \* \* \*

18 (27) "Public use airport" means any State, municipal, or privately  
19 owned airport that is open to the public.

1 Sec. 3. 5 V.S.A. § 1009 is amended to read:

2 § 1009. NATURE OF REGULATIONS

3 (a) All airport zoning regulations adopted under this chapter shall be  
4 reasonable and none shall impose any requirement or restriction ~~which~~ that is  
5 not reasonably necessary to effectuate the purposes of this chapter. In  
6 determining what regulations it may adopt, each political subdivision and joint  
7 airport zoning board shall consider, among other things, the character of the  
8 flying operations expected to be conducted at the airport, the nature of the  
9 terrain within the airport hazard area, the character of the neighborhood, and  
10 the uses to which the property to be zoned is to be put ~~and~~ or is adaptable.

11 (b) In the absence of airport zoning regulations enacted by a political  
12 subdivision or joint airport zoning board, the standards set forth in subsection  
13 (c) of this section shall govern.

14 (c) Airport zoning regulations adopted under this chapter shall provide that  
15 no structure be constructed or altered if the structure:

16 (1) constitutes an obstruction to air navigation as determined by the  
17 Federal Aviation Administration pursuant to 14 C.F.R. part 77;

18 (2) lies within any airport hazard area, as defined in section 202 of this  
19 title, as amended, and is:

20 (A) at or above 100 feet above ground level as measured at the site of  
21 the structure or at the public use airport, whichever is higher; and

1           (B) within a 40:1 slope beginning at the end of any usable runway;

2           (3) interferes with long-range radar, terminal radar, navigational aides,

3           published flight procedures, cellular communications, or Visual Flight Rule

4           (VFR) traffic patterns, or would require adjustment to arrival or departure

5           altitude minimums for landing or takeoff, circling minimums, or any other

6           operational requirement for the safety or efficiency of airports or aviation; or

7           (4) is at or above 100 feet above ground level on any Military Training

8           Route established by the Federal Aviation Administration and the Department

9           of Defense and depicted in Instrument Flight Rules (IFR) Enroute Low

10          Altitude Charts and VFR Sectional Aeronautical Charts.

11          (d) Structures located on water shall comply with all relevant limitations

12          that would apply if the structure were on land. Measured height of the

13          structure will be based on the structure's elevation above the average water

14          level of the body of water.

15          Sec. 4. 5 V.S.A. § 1018 is amended to read:

16          § 1018. VIOLATIONS

17          The political subdivision or agency adopting zoning regulations under this

18          chapter, or the political subdivision within which an airport is located or within

19          which a structure prohibited under subsection 1009(c) of this title is

20          constructed or proposed to be constructed, may institute in any court of

21          competent jurisdiction, an action to prevent, restrain, correct, or abate any

1 violation of this chapter or of airport zoning regulations adopted under this  
2 chapter, or of any order or ruling made in connection with their administration  
3 or enforcement. The court shall grant to the plaintiff such relief, by way of  
4 injunction or otherwise, as may be proper under all the facts and circumstances  
5 of the case, in order fully to accomplish the purposes of this chapter and of the  
6 rules adopted and orders and rulings made pursuant to this chapter.

7 Sec. 5. 24 V.S.A. § 4412 is amended to read:

8 § 4412. REQUIRED PROVISIONS AND PROHIBITED EFFECTS

9 Notwithstanding any existing bylaw, the following land development  
10 provisions shall apply in every municipality:

11 \* \* \*

12 (10) Airport Zoning Act; prohibition. A municipality shall not issue a  
13 municipal land use permit for construction or alteration of a structure  
14 prohibited under 5 V.S.A. § 1009(c).

15 Sec. 6. EFFECTIVE DATE

16 This act shall take effect on July 1, 2017.