

1 H.732

2 Introduced by Representatives Potter of Clarendon, Courcelle of Rutland City,

3 Kilmartin of Newport City and Peaslee of Guildhall

4 Referred to Committee on

5 Date:

6 Subject: Aeronautics; airports; zoning; structures; construction or alteration;

7 restrictions

8 Statement of purpose: This bill proposes to:

9 (1) Amend the definition of “airport hazard area” to encompass a zone
10 within 10 nautical miles of any public use airport and define “public use
11 airport.”

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

16 An act relating to construction or alteration of structures affecting public
17 use airports

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

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

2 § 1001. FINDINGS AND SHORT TITLE

3 (a) The general assembly finds and declares that it is in the public interest
4 to provide for the orderly development of each public use airport in this state
5 and the areas surrounding these airports. It is the purpose of this chapter to
6 protect public health, safety, and welfare by ensuring the orderly expansion of
7 airports and the adoption of land use measures that minimize the public's
8 exposure to excessive noise and safety hazards within areas surrounding
9 airports to the extent that these areas are not already devoted to existing
10 nonconforming uses, to prevent the creation of new noise and safety hazards,
11 and to authorize the adoption of reasonable and necessary airport zoning
12 regulations to effectuate these purposes.

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

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

16 § 202. DEFINITIONS

17 * * *

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

21 * * *

1 (27) “Public use airport” means any state, municipal, or privately owned
2 airport which is open to the public.

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

4 § 1009. NATURE OF REGULATIONS

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

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

16 (c) Notwithstanding the provisions of subsection (a) of this section, no
17 structure may be constructed or altered if the structure:

18 (1) constitutes an obstruction to air navigation as determined by the
19 Federal Aviation Administration pursuant to 40 C.F.R. part 77;

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

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

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

4 (3) interferes with long-range radar, terminal radar, navigational aides,
5 published flight procedures, cellular communications, or Visual Flight Rule
6 (VFR) traffic patterns, or would require adjustment to arrival or departure
7 altitude minimums for landing or takeoff, circling minimums, or any other
8 operational requirement for the safety or efficiency of airports or aviation; or

9 (4) is at or above 100 feet above ground level on any Military Training
10 Route established by the Federal Aviation Administration and the Department
11 of Defense and depicted in Instrument Flight Rules (IFR) Enroute Low
12 Altitude Charts and VFR Sectional Aeronautical Charts.

13 (d) Structures located on water shall comply with all relevant limitations
14 that apply as if the structure were on land. Measured height of the structure
15 will be based on the structure's elevation above the average water level of the
16 body of water.

17 Sec. 4. 5 V.S.A. § 1012 is amended to read:

18 § 1012. VARIANCE FROM REGULATIONS

19 (a) A person desiring to use his or her property in violation of airport
20 zoning regulations adopted under this chapter may apply to the board of
21 adjustment for a variance from the zoning regulations in question. The

1 variances shall be allowed where a literal application or enforcement of the
2 regulations would result in practical difficulty or unnecessary hardship and the
3 relief granted would not be contrary to the public interest but do substantial
4 justice and be in accordance with the spirit of the regulations and this chapter.
5 However, any variance may be allowed subject to any reasonable conditions
6 that the board of adjustment may deem necessary to accomplish the purposes
7 of this chapter.

8 (b) Notwithstanding the provisions of subsection (a) of this section, no
9 variance shall be granted if the subject structure violates any condition
10 specified in subsection 1009(c) of this chapter.