



Oregon

John A. Kitzhaber, MD, Governor



3040 25th Street, SE
Salem, OR 97302-1125
Phone: (503) 378-4880
Toll Free: (800) 874-0102
FAX: (503) 373-1688

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Senator Lee Beyer,
Chairman
Senate Business, Transportation and Economic Development Committee
900 Court St NE, Room 453
Salem, Oregon 97301

RE: ODA Citation and Civil Penalty Authority

Dear Chairman Beyer and Committee Members,

Thank you for the opportunity to appear before the Senate Business, Transportation and Economic Development Committee on the 24th of February regarding Senate Bill 54, Civil Penalty Authority for the Oregon Department of Aviation (ODA).

As previously submitted to the committee, ODA is tasked with promoting safe aviation throughout the state of Oregon. We are chartered to help municipalities, cities and counties with their aviation issues. Additionally, ODA licenses and inspects (on behalf of the FAA) the 97 public use airports in Oregon. ODA also owns or manages 28 airports throughout the state. The Oregon Department of Aviation is strictly an "Other Funded" agency realizing income from a variety of sources. The department's primary sources of revenue are from a 1cent tax/gallon on jet fuel and 9 cent/gallon tax on AVGAS (100LL). Due to approximately 25% reduction in jet and AVGAS fuel tax revenue, ODA experienced a cash flow shortfall in 2010 and took significant action to reduce expenditures to ensure sustainability for the current biennium and budget for sustainability for the 2011-2013 biennium. The Department has successfully done that.

As a result of the revenue shortfall in 2010, the director of the Department of Aviation had been directed by Legislative Fiscal Office (LFO) and an independent multiagency management report to maximize revenue where possible. ODA took a number of steps to reduce expenditures including reducing staff in 2010 from 17 FTE to 12 FTE, eliminating vehicles, outsourcing airport mowing to ODOT and cutting expenditures wherever possible.

ODA's primary revenue source, fuel tax revenue, is divided between two programs. 53% of that revenue goes to help fund the Airport Pavement Maintenance Program (PMP) for the 66 paved public use airports. This program is coordinated by ODA in cooperation with the FAA and individual airport sponsors. The remaining 47% of revenue goes towards Operations funding of the Department of Aviation. ODA also receives lease and airport revenue from approximately 300 leases at the state owned airports as a less significant portion of the department's budget.

Additionally, ODA receives pilot and aircraft registration funds to fund critical programs that benefit aviation across the entire Oregon aviation community. Pilot Registration funds are entirely dedicated to funding Oregon Emergency Management's aviation portion of their Search and Rescue (SAR) program and one half of an FTE at ODA for program administration. Aircraft registration funds are dedicated to funding the 5% airport sponsor match required by the FAA to be eligible for 95% FAA funded federal grants. FAA grants are used for capital improvements for the 12 state owned airports that are part of the National Plan of Integrated Airport System (NPIAS). **There are no general funds that support the Oregon Department of Aviation.**

Senator Girod, Senator Starr and Senator Atkinson asked specific questions during the public hearing on SB-54 that are rephrased below along with the answers requested. Those questions were:

Q. Senator Girod: Does the revenue from Citation or Civil Penalties go to ODA or does it go to the general fund?

- A. ODA's current authorization under *ORS 837.100* directs all proceeds deriving from citation authority go to the general fund. *"All fines and court costs recovered from violations established under ORS 837.990 shall be paid to the clerk of the court involved. The clerk, after deductions of court costs provided by law for the proceedings, shall pay the remainder of the money to the state treasurer to be deposited in the Criminal Fine and Assessment Account in the General Fund."*

As explained during the initial public hearing on SB 54, ODA would not use Civil Penalties as a first resort. However, to comply with LFO and the multiagency management report, ODA intends to use this authority in cases of flagrant and deliberate disregard of payment of fees owed as well as for deliberate aviation safety violations such as operating an aircraft under the influence of alcohol or drugs.

Q. Senator Starr: What do other states in the region do with regard to Civil Penalties?

- A. A review of several western states aviation agencies returned the information below. The table reflects whether a state requires aircraft registration, pilot registration, and statutes regarding enforcement of safety or flying while under the influence of drugs or alcohol. The last two columns show whether the state has citation or civil penalty authority respectively. Of note, Nevada has only an aviation policy arm that is an extension of their Department of Transportation and does not have any state registration for aircraft or pilots. Washington State repealed their pilot registration but replaced the revenue with a one cent per gallon tax on aviation fuel. See table below:

State	A/C Registration	Pilot Registration	Enforce Safety / DUI (flying)?	Citation Authority	Civil penalty
Washington	Yes / Excise Tax	No/Repealed 2005	Yes	Yes	Yes
Idaho	Yes / Excise Tax	Yes (\$12/yr)	Yes	Yes	Yes / Dept of Revenue
Nevada	No	No	No	No	No
Montana	Yes / Varies Age and Horsepower	Yes (\$10/yr)	No	Yes	5 x Fee / Enforced by Counties
Arizona	Yes / DMV (.005% of value/yr)	No	Yes	Yes	Yes / Penalty Plus Tax Lien
New Mexico	Yes / Weight Based Fee	No	No	No	Lien on Aircraft

Q. Senator Atkinson: What are the fees for aircraft registration in Oregon?

A. Fees for aircraft registration in Oregon vary depending on the class of aircraft. The fee structure is found in *ORS 837.045*. See table below:

AIRCRAFT CLASSIFICATION AND FEE SCHEDULE (Effective July 1, 2009)

Single engine fixed wing, piston	\$55
Single engine fixed wing, turboprop	\$200
Multiengine fixed wing, piston	\$90
Multiengine fixed wing, turboprop	\$200
Turbojet fixed wing	\$350
Helicopter piston engine	\$55
Helicopter turbine engine	\$110
Lighter than air, home built, sailplane or gyrocopter	\$40
Ultra-light aircraft	\$30
Ex-military multiengine or turbojet/ex-air carrier	\$200

ORS 837.040 requires every Oregon resident who owns an aircraft that is based or flown in Oregon, or any non-resident who owns an aircraft based or flown in Oregon, or any owner of an aircraft used for commercial operations in Oregon must register that aircraft with Oregon Department of Aviation within 60 days of being subject to registration. Fees from aircraft registration help the Department of Aviation provide airport improvements and maintenance at public use airports across Oregon, as well as provide aviation system planning and other activities to strengthen the state-wide aviation system.

You have 60 days to register when you buy a new aircraft, bring an aircraft into Oregon, or return to service an aircraft previously incapable of flight. ORS 837.045 provides that if an aircraft registration deadline is missed, the aircraft owner will be assessed a penalty fee. The fee may be prorated.

Q. Senator Atkinson: Why do we need pilot registration in Oregon?

- A.** Pilot registration funds the Oregon Emergency Management (OEM) aviation Search and Rescue program per *ORS 837.035*. One of the uses of civil penalty authority would be to provide sufficient incentive to those pilots living and flying in Oregon who deliberately do not pay or renew their Oregon Pilot registration to be current. There are over 5,000 pilots currently registered in Oregon. Initial pilot registration is set at a reasonable \$12 and two year renewals are \$24. Through investigation and spot-checks, ODA discovers pilots who have initially registered and then failed to renew in subsequent years. ODA has no enforceable penalty capability.

Dedication of Oregon Pilot Fees to Air Search & Rescue. Pursuant to ORS 837.035, proceeds from Oregon Pilot Registration fees are deposited in a dedicated account which funds Air Search & Rescue through the Department of State Police, Office of Emergency Management. This revenue stream is dedicated to funding all expenses incurred in conducting activities authorized under ORS 401.555 to search for lost planes, as well as search and rescue of lost persons. The funds are also used to provide pilot survival education and training.

ORS 837.020 requires every pilot operating within Oregon to register with the Oregon Department of Aviation. By law, registration must take place within 60 days of issuance of any "appropriate effective federal certificate, permit, rating or license relating to competency as a pilot" - with the exception of student pilots, who must register prior to their first solo flight. Non-resident pilots must also register with Dept of Aviation if flying in Oregon. Only non-resident pilots flying in order for major air carriers are exempt from pilot registration requirement, so long as they do not engage in any recreational flying or personal business, such as charter, agricultural operations, flight instruction, etc. in Oregon.

Registration fees are set by statute at a \$12 initial fee for the first year. They are subsequently renewable on the anniversary of the pilot's birthday for \$24, which covers a two-year window of time. Every registered pilot must notify the Department in writing within 30 days of a change of address or change of name.

Thank you again for the opportunity to provide information to the Senate Business, Transportation and Economic Development Committee. I respectfully request your favorable consideration of our request for authorization to use Civil Penalty Authority.

Respectfully,

 Mitch Swecker

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Interim Director

Oregon Department of Aviation