CHAPTER 2-03
SUBSTANTIVE AND JURISDICTIONAL PROVISIONS

2-03-01. Definitions.

In this chapter, unless the context or subject matter otherwise requires:

1. "Aircraft" means any contrivance now known or hereafter invented, used, or designed for navigation of or flight in the air. Provided, a hydroplane, while at rest on water and while being operated on or immediately above water, shall be governed by the rules regarding water navigation.
2. "Airman" means any individual who engages, as the person in command, or as pilot or member of the crew, in the operating and navigation of an aircraft while underway.
3. "Passenger" includes any person riding in an aircraft, but having no part in its operation.

2-03-02. Sovereignty in space.

Sovereignty in the space above the lands and waters of this state is declared to rest in the state, except where granted to and assumed by the United States pursuant to a constitutional grant from the people of this state.

2-03-03. Ownership of space.

The ownership of the space above the lands and waters of this state is declared to be vested in the several owners of the surface beneath, subject to the right of flight described in section 2-03-04.

2-03-04. Lawfulness of flight and landing.

Flight in aircraft over the lands and waters of this state is lawful, unless at such a low altitude as to interfere with the then existing use to which the land or water, or the space over the land or water is put by the owner, or unless so conducted as to be imminently dangerous to persons or property lawfully on the land or water beneath. The landing of an aircraft on the lands or waters of another, without the owner's consent, is unlawful except in the case of a forced landing. For damages caused by a forced landing, however, the owner or lessee of the aircraft or the airman is liable, as provided in section 2-03-05.

2-03-05. Damage to persons and property.

The owner and the pilot, or either of them, of every aircraft which is operated over the lands or waters of this state are liable for injuries to persons or property on the land or water beneath caused by the ascent, descent, or flight of the aircraft, or the dropping or falling of any object therefrom, in accordance with the rules of law applicable to torts in this state, unless the injury is caused in whole or in part by the negligence of the person injured, or of the owner or bailee of the property injured. If the aircraft is leased at the time of the injury to person or property, both owner and lessee are liable and they may be sued jointly, or either or both of them may be sued separately. An airman who is not the owner or lessee is liable only for the consequences of that person's own negligence. The injured person, or owner, or bailee of the injured property, has a lien on the aircraft causing the injury to the extent of the damage caused by the aircraft or objects falling from it.

As used in this section, "owner" includes a person having full title to aircraft and operating it through servants, and also includes a bona fide lessee or bailee of such aircraft, whether gratuitously or for hire; but "owner", as used in this section, does not include a bona fide bailor or lessor of such aircraft, whether gratuitously or for hire, or a mortgagee, conditional seller, trustee for creditors of such aircraft or other person having a security title only, nor is the owner of such aircraft liable when the pilot thereof is in possession thereof as a result of theft or felonious conversion.

The person in whose name an aircraft is registered with the United States department of transportation or the aeronautics commission of this state is prima facie the owner of such aircraft within the meaning of this section.

2-03-06. Collision of aircraft.

The liability of the owner of one aircraft to the owner of another aircraft, or to the airmen or passengers on either aircraft, for damage caused by collision on land or in the air, must be determined by the rules of law applicable to torts on land.

2-03-07. Aircraft - Common carriers.

Aircraft carrying passengers or property for hire are deemed common carriers and are subject to all of the rules applicable thereto.

2-03-08. Jurisdiction over crimes and torts.

All crimes, torts, and other wrongs committed by or against an airman or passenger while in flight over this state are governed by the laws of this state, and the question whether damage occasioned by or to an aircraft while in flight over this state constitutes a tort, crime, or other wrong by or against the owner of such aircraft, must be determined by the laws of this state.

2-03-09. Jurisdiction over contracts.

All contractual and other legal relations entered into by airmen or passengers while in flight over this state have the same effect as if entered into on the land or water beneath.

2-03-10. Reckless operation - Operation while intoxicated - Tampering with aircraft - Misdemeanors - Penalties.

1. Any person who operates any aircraft within the airspace over, above, and upon the lands and waters of this state, carelessly and heedlessly in willful disregard of the rights or safety of others, or without due caution and circumspection in a manner so as to endanger or be likely to endanger any person or property, is guilty of a class A misdemeanor.
2. Whoever operates any aircraft in this state on land, water, or in the air while in an intoxicated condition or while under the influence of alcoholic beverages or any controlled substance, is guilty of a class A misdemeanor.
3. No person may act as a crew member of any aircraft or start an engine of any aircraft within eight hours after the consumption of any alcoholic beverage or while using any controlled substance that affects that person's faculties in any way contrary to safety. Anyone violating the provisions of this subsection is guilty of a class A misdemeanor.
4. No person may, without express or implied authority of the owner, operate, climb upon, enter, manipulate the controls or accessories of, set in motion, remove parts or contents therefrom, or otherwise tamper with any civil aircraft within this state with intent to injure the same or cause inconvenience to the owner or operator thereof, or knowingly cause or permit the same to be done. Any person who violates any of the provisions of this subsection is guilty of a class B misdemeanor.

2-03-11. Notice.

Whenever a person, firm, corporation, limited liability company, or association shall erect anywhere in this state a building, structure, or tower of any kind over two hundred feet [60.96 meters] in height above the terrain such person, firm, corporation, limited liability company, or association shall first file a notice with the state of North Dakota aeronautics commission.

2-03-12. Obstructions near runway approaches.

It is unlawful to build or maintain any obstruction near the runway approach to any airport in the state open for public use, except pursuant to rules and regulations adopted by the aeronautics commission.

2-03-13. Penalty.

Each violation of section 2-03-11 or 2-03-12 or any regulations, orders, or rulings promulgated or made pursuant to this chapter constitutes a class A misdemeanor.

2-03-14. Civil liability for injuries to guest passenger.

No person transported by the owner or operator of any aircraft as a guest without payment for such transportation has claim for relief for damages against the owner or operator for injury, death, or loss in case of accident, unless the accident was caused by the gross negligence, intoxication, or willful and wanton misconduct of the owner or operator of the aircraft, and unless the gross negligence, intoxication, or willful and wanton misconduct of the owner or operator of the aircraft contributed to the injury, death, or loss. No person so transported has claim for relief if that person has willfully or by want of ordinary care brought about that person's own injury. For purposes of this section, the word "guest" means any person other than an employee of the owner or registrant of any aircraft, or of a person responsible for its operation with the owner's or registrant's express or implied consent, being in or upon, entering or leaving the same, except any passenger for hire and except any passenger while the aircraft is being used in the business of demonstrating or testing. The sharing of expense does not constitute a carriage for hire within the meaning of this section.