

House Bill 494

By: Representatives Welch of the 110<sup>th</sup>, Cheokas of the 138<sup>th</sup>, and Pruett of the 149<sup>th</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To amend Chapter 9 of Title 32 of the Official Code of Georgia Annotated, relating to mass  
2 transportation, so as to provide for the installation of safety markers on utility lines to provide  
3 for adequate visual warning in the use of private airstrips; to provide for definitions; to  
4 provide for the powers, authority, and duties of the Department of Transportation; to provide  
5 for a schedule of installation fees; to impose a penalty; to provide an appeal process; to  
6 provide for the promulgation of rules and regulations by the department; to provide for  
7 related matters; to provide effective dates; to repeal conflicting laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 style="text-align:center">**SECTION 1.**

10 Chapter 9 of Title 32 of the Official Code of Georgia Annotated, relating to mass  
11 transportation, is amended by adding a new Code section to read as follows:

12 "32-9-8.1.

13 (a) As used in this Code section, the term:

14 (1) 'Appurtenant utility line' means an above ground electrical power line or nonelectrical  
15 cable or wire that penetrates a 20:1 approach slope as measured from the runway  
16 threshold at either end of the private airstrip.

17 (2) 'Installation fee schedule' means a listing of fees necessary to purchase and install  
18 safety markers as determined by the department.

19 (3) 'Private airstrip' means a privately owned landing strip for airplanes, gliders, or  
20 helicopters for personal or private use that is not open to the general public and not  
21 subject to the provisions of Code Section 32-9-8.

22 (4) 'Safety marker' means a highly visible object or device affixed to an appurtenant  
23 utility line which alerts operators of aircraft to the existence of the appurtenant utility  
24 line.

25 (b) Any owner of a private airstrip may make a written notice to an owner of an  
26 appurtenant utility line requesting the installation of safety markers. Within 90 days of the

27 owner of an appurtenant utility line's receipt of such written notice, the owner of the  
 28 appurtenant utility line shall:

29 (1) Determine the appropriate type, number, and location of safety markers to be  
 30 installed on the appurtenant utility line which will provide adequate visual warning to the  
 31 flying public of the close proximity of the appurtenant utility lines to the private airstrip;

32 (2) Determine the installation fee costs for the installation of such safety markers based  
 33 on the installation fee schedule developed by the department; and

34 (3) Provide notice to the owner of the private airstrip as to the type, number, location,  
 35 and installation fee of the requisite safety markers.

36 The owner of the appurtenant utility line shall file a request for review pursuant to  
 37 subsection (e) of this Code section if such owner is unable to comply or anticipates being  
 38 unable to comply with this subsection for any reason, including but not limited to the time  
 39 provided for responding to the owner of the private airstrip, the time provided for  
 40 installation, or the fees set in the installation fee schedule.

41 (c) The owner of the private airstrip shall have 90 days from the receipt of notice under  
 42 paragraph (3) of subsection (b) of this Code section to:

43 (1) Remit to the owner of the appurtenant utility line the full amount of the installation  
 44 fee;

45 (2) File a request for review pursuant to subsection (e) of this Code section; or

46 (3) Provide written notice to the owner of the appurtenant utility line of his or her  
 47 decision not to pursue the installation of the safety markers. If the owner of the private  
 48 airstrip provides such written notice or does not take any action under paragraph (1) or  
 49 (2) of this subsection, the owner of the appurtenant utility line shall have no further  
 50 obligation under this Code section; provided, however, that this paragraph shall not be  
 51 construed to prohibit the owner of the private airstrip from sending written notice to the  
 52 same owner of an appurtenant utility line in any subsequent calendar year.

53 (d) If the owner of the private airstrip pays the full amount of the installation fee under  
 54 paragraph (1) of subsection (c) of this Code section, the owner of the appurtenant utility  
 55 line shall have 90 days from receipt of payment to purchase the safety markers and  
 56 complete the installation. The owner of the appurtenant utility line shall file a request for  
 57 review pursuant to subsection (e) of this Code section and may be granted up to two  
 58 extensions of time not to exceed 90 days upon a showing that the need for an extension is  
 59 the result of force majeure or the lack of market supply of the requisite safety markers.

60 (e) If any owner of an appurtenant utility line fails to comply with any provision of this  
 61 Code section or any owner of an appurtenant utility line anticipates an inability to comply  
 62 with any provision of this Code section, then an order enforcing this Code section or  
 63 granting an exception may be sought from the department. Either party may file with the

64 department a written request for review of the matter. Any such request for review shall  
 65 be accompanied by a filing fee of \$50.00 and shall include any documents or forms  
 66 required by the department. A copy of such request for review shall be served upon the  
 67 other party by certified mail or statutory overnight delivery, return receipt requested. The  
 68 department shall within 30 days after the filing of such request investigate the matter and  
 69 issue an order either requiring the owner of the appurtenant utility line to take such action  
 70 as is necessary for purposes of compliance with this Code section or grant an exception to  
 71 the owner of the appurtenant utility line as to time for compliance or a deviation from the  
 72 installation fee schedule of the department. Copies of any such order of the department  
 73 shall be served upon all parties by certified mail or statutory overnight delivery, return  
 74 receipt requested. The department shall keep detailed records of its costs of investigation  
 75 and review for purposes of this subsection, and such records shall be subject to public  
 76 inspection as provided by Article 4 of Chapter 18 of Title 50.

77 (f) If any owner of an appurtenant utility line fails to comply with any order of the  
 78 department under subsection (e) of this Code section within 15 days after receipt of such  
 79 order, then after notice and opportunity for a hearing, such owner of an appurtenant utility  
 80 line shall be subject to a civil penalty in the amount of \$1,000.00 per day beginning 15 days  
 81 after the date of receipt of the order of the department until the owner of the appurtenant  
 82 utility line has complied with the order of the department; provided, however, that the  
 83 department may grant an extension of time for compliance without penalty upon a showing  
 84 that the owner of the appurtenant utility line's failure to timely comply was due to force  
 85 majeure. Any fine under this subsection shall be tolled for the period from the filing of a  
 86 petition for a judicial review and shall be subject to judicial review in such manner as is  
 87 provided by law for judicial review of contested cases under Chapter 13 of Title 50, the  
 88 'Georgia Administrative Procedure Act,' until the rendering of a final decision.

89 (g) The department shall promulgate such rules and regulations as are necessary to  
 90 implement the provisions of this Code section, including, but not limited to, the  
 91 promulgation of rules and regulations to establish the installation fee schedule."

92 **SECTION 2.**

93 For purposes of proposing rules and regulations, this Act shall become effective upon its  
 94 approval by the Governor or upon its becoming law without such approval. For all other  
 95 purposes, this Act shall become effective on October 1, 2013.

96 **SECTION 3.**

97 All laws and parts of laws in conflict with this Act are repealed.