

House Bill 494 (COMMITTEE SUBSTITUTE)

By: Representatives Welch of the 110th, Cheokas of the 138th, and Pruett of the 149th

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 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, either by certified mail or
26 statutory overnight delivery, return receipt requested, to an owner of an appurtenant utility

27 line requesting the installation of safety markers. Within 90 days of the owner of an
 28 appurtenant utility line's receipt of such written notice, the owner of the appurtenant utility
 29 line shall:

- 30 (1) Determine the appropriate type, number, and location of safety markers to be
 31 installed on the appurtenant utility line which will provide adequate visual warning to the
 32 flying public of the close proximity of the appurtenant utility lines to the private airstrip;
 33 (2) Determine the installation fee costs for the installation of such safety markers based
 34 on the installation fee schedule developed by the department; and
 35 (3) Provide notice to the owner of the private airstrip as to the type, number, location,
 36 and installation fee of the requisite safety markers.

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

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

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

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

61 (e) If any owner of an appurtenant utility line fails to comply with any provision of this
 62 Code section or any owner of an appurtenant utility line anticipates an inability to comply
 63 with any provision of this Code section, then an order enforcing this Code section or

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

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

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

93 **SECTION 2.**

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

97 **SECTION 3.**

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