

The Senate Transportation Committee offered the following substitute to HB 494:

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 immunity; to provide for related matters; to provide effective dates; to repeal conflicting
8 laws; and for other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

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

26 (b) Any owner of a private airstrip may make a written notice, either by certified mail or
 27 statutory overnight delivery, return receipt requested, to an owner of an appurtenant utility
 28 line requesting the installation of safety markers. Such notice shall be accompanied by a
 29 check or money order in the amount of \$100.00 made payable to the owner of the
 30 appurtenant utility line for the work to be performed by the owner of the appurtenant utility
 31 line under paragraphs (1) and (2) of this subsection. Within 90 days of the owner of an
 32 appurtenant utility line's receipt of such written notice, the owner of the appurtenant utility
 33 line shall:

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

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

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

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

61 (d) If the owner of the private airstrip pays the full amount of the installation fee under
 62 paragraph (1) of subsection (c) of this Code section, the owner of the appurtenant utility

63 line shall have 90 days from receipt of payment to purchase the safety markers and
64 complete the installation. The owner of the appurtenant utility line shall file a request for
65 review pursuant to subsection (e) of this Code section and may be granted up to two
66 extensions of time not to exceed 90 days upon a showing that the need for an extension is
67 the result of force majeure, grid reliability, work scheduling conflicts, or the lack of market
68 supply of the requisite safety markers and other necessary equipment.

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

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

98 (g) The department shall promulgate such rules and regulations as are necessary to
99 implement the provisions of this Code section, including, but not limited to, the

100 promulgation of rules and regulations to establish installation fee schedules based on utility
101 best practices.
102 (h) An owner of a private airstrip shall have immunity from any liability, civil or criminal,
103 that would otherwise be incurred or imposed as a result of taking or failing to take any
104 action pursuant to this Code section. This Code section shall not be construed as imposing
105 any additional duty on an owner of a private airstrip which is not already otherwise
106 imposed by law."

107 **SECTION 2.**

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

111 **SECTION 3.**

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