

CHAPTER 263
UNIFORM AERONAUTICS ACT (MODIFIED)

Section

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" **§263-1 Definition of terms.** In this chapter, "aircraft" includes balloon, airplane, hydroplane, and every other vehicle used for navigation through the air. 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; while being operated through the air otherwise than immediately above water, it shall be treated as an aircraft.

"Aeronaut" includes aviator, pilot, balloonist, and every other person having any part in the operation of aircraft while in flight.

"Commercial use" includes the carriage in air commerce of persons or property for compensation or hire, and the lease or rental of any aircraft.

"Passenger" includes any person riding in an aircraft but having no part in its operation. [L 1923, c 109, §1; RL 1925, §3891; RL 1935, §6975; RL 1945, §4921; RL 1955, §16-1; HRS §263-1; am L 1987, c 326, §2]

" **§263-2 Sovereignty in space.** Sovereignty in the space above the lands and waters of the State is declared to rest in the State, except where granted to and assumed by the United States. [L 1923, c 109, §2; RL 1925, §3892; RL 1935, §6976; RL 1945, §4922; RL 1955, §16-2; HRS §263-2]

" **§263-3 Ownership of space.** The ownership of the space above the lands and waters of the State is declared to be vested in the several owners of the surface beneath, subject to the right of flight described in section 263-4. [L 1923, c 109, §3; RL 1925, §3893; RL 1935, §6977; RL 1945, §4923; RL 1955, §16-3; HRS §263-3]

" **§263-4 Lawfulness of flight.** Flight in aircraft over the lands and waters of the 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 that person'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 aeronaut shall be liable, as provided in section 263-5. [L 1923, c 109, §4; RL 1925, §3894; am L 1927, c 238, §1; am L Sp 1932 2d, c 17, §1; RL 1935, §6978; RL 1945, §4924; am imp L 1947, c 32, §2; RL 1955, §16-4; HRS §263-4; gen ch 1993]

" **§263-5 Damage on land.** The owner of every aircraft which is operated over the lands or waters of the State is presumed liable, except the owner of every aircraft operated for commercial use is absolutely 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, whether the owner was negligent or not, 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 shall be liable, and they may be sued jointly, or either or both of them may be sued separately. An aeronaut who is not the owner or lessee shall be liable only for the consequences of the aeronaut's own negligence. The injured person, or owner or bailee of injured property, shall have a lien on the aircraft causing the injury to the extent of the damage caused by the aircraft or objects falling from it. [L 1923, c 109, §5; RL 1925, §3895; RL 1935, §6979; RL 1945, §4925; RL 1955, §16-5; HRS §263-5; gen ch 1985; am L 1987, c 326, §1]

Case Notes

Where there is a clear case of negligence and an absence of contributory negligence, it is not necessary to invoke the statute. 139 F. Supp. 942.

This statute did not provide plaintiff, the workers' compensation carrier for the employer of a pilot killed in an airplane crash, with a cause of action against the airplane owner. 283 F. Supp. 2d 1144.

" **§263-6 Collision of aircraft.** The liability of the owner of one aircraft to the owner of another aircraft, or to aeronauts or passengers on either aircraft, for damage caused by collision on land or in the air, shall be determined by the rules of law applicable to torts on land. [L 1923, c 109, §6; RL 1925, §3896; RL 1935, §6980; RL 1945, §4926; RL 1955, §16-6; HRS §263-6]

" **§263-7 Jurisdiction over crimes and torts.** All crimes, torts, and other wrongs committed by or against an aeronaut or passenger while in flight over the State shall be governed by the laws of the State. The question whether damage occasioned by or to an aircraft while in flight over the State constitutes a tort, crime, or other wrong by or against the owner of the aircraft, shall be determined by the laws of the State. [L 1923, c 109, §7; RL 1925, §3897; RL 1935, §6981; RL 1945, §4927; RL 1955, §16-7; HRS §263-7]

" **§263-8 Jurisdiction over contracts.** All contractual and other legal relations entered into by aeronauts or passengers while in flight over the State shall have the same effect as if entered into on the land or water beneath. [L 1923, c 109, §8; RL 1925, §3898; RL 1935, §6982; RL 1945, §4928; RL 1955, §16-8; HRS §263-8]

" **§263-9 Dangerous flying a misdemeanor; penalty.** Any aeronaut or passenger who, while in flight over a thickly inhabited area or over a public gathering within the State, engages in trick or acrobatic flying, or in any acrobatic feat, or flies, except while in landing or taking off, at such a low level as to endanger the persons on the surface beneath, or drops any object except loose water or loose sand ballast, or paper handbills, shall be guilty of a misdemeanor and punishable by a fine of not more than \$1,000, or imprisonment for not more than one year, or both. [L 1923, c 109, §9; RL 1925, §3899; RL 1935, §6983; RL 1945, §4929; RL 1955, §16-9; HRS §263-9]

" **§263-10 Hunting from aircraft; penalty.** (a) Any aeronaut or passenger who, while in flight in, across, or above the State, intentionally kills or attempts to kill any birds or animals shall be guilty of a misdemeanor and punished by a fine of not more than \$1,000, or by imprisonment for not more than one year, or both.

(b) Notwithstanding any other law to the contrary, state employees and independent contractors retained by the State may, while in flight in, across, or above the State, intentionally kill or attempt to kill any wildlife in furtherance of official

state duties. [L 1923, c 109, §13; RL 1925, §3903; RL 1935, §6986; RL 1945, §4933; RL 1955, §16-10; HRS §263-10; am L 2016, c 111, §1]

" **§263-11 Reckless operation of aircraft a misdemeanor.** It shall be unlawful for any person to operate an aircraft in the air, or on the ground or water, while under the influence of intoxicating liquor, narcotics, or other habit-forming drug, or to operate an aircraft in the air or on the ground or water, in a careless or reckless manner so as to endanger the life or property of another. For the purposes of this section a hydroplane shall be deemed an aircraft. In any proceeding charging careless or reckless operation of an aircraft in violation of this section, the court in determining whether the operation was careless or reckless shall consider the standards for safe operation of aircraft prescribed by federal statutes or regulations governing aeronautics, or by state regulations governing aeronautics. Any person violating this section shall be guilty of a misdemeanor, and punishable by a fine of not more than \$1,000, or imprisonment for not more than one year, or both.

For any violation of this section or section 263-9, in addition to, or in lieu of, the penalties hereinabove provided or provided by section 263-9, or as a condition to the suspension of a sentence which may be imposed pursuant thereto, the court in its discretion may prohibit the violator from operating an aircraft within the State for such period as it may determine but not to exceed one year. Violation of the duly imposed prohibition of the court may be treated as a separate offense under the sections or as a contempt of court. [L 1947, c 32, §3; RL 1955, §16-11; HRS §263-11]