

GENERAL ASSEMBLY OF NORTH CAROLINA
1987 SESSION

CHAPTER 818
SENATE BILL 668

AN ACT TO PROVIDE FOR EFFECTIVE MEASURES TO COMBAT THE
OPERATION OF AIRCRAFT WHILE IMPAIRED AND TO COMBAT
TAMPERING WITH AIRCRAFT OR AIRPORT FACILITIES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 63-27 is rewritten to read:

"§ 63-27. **Operation of aircraft while impaired.**—(a) Offense. A person commits the offense of operation of an aircraft while impaired if he operates an aircraft, whether on the ground or in the air or on water, within this State:

- (1) While under the influence of an impairing substance; or
- (2) After having consumed sufficient alcohol that he has, at any relevant time after the operating of an aircraft, an alcohol concentration of 0.04 or more.

The relevant definitions contained in G.S. 20-4.01 shall apply to this section.

(b) Defense precluded. The fact that a person charged with violating this section is or has been legally entitled to use alcohol or a drug is not a defense to a charge under this section.

(c) Pleading. In any prosecution for operating an aircraft while impaired, the pleading is sufficient if it states the time and place of the alleged offense in the usual form and charges that the defendant operated the aircraft within this State while subject to an impairing substance.

(d) Chemical Analysis. Any person who operates an airplane or other aircraft, whether on the ground or in the air or on the water within the territorial limits of this State gives consent to chemical analysis if he is charged with the offense of operating an aircraft while impaired. The charging officer must designate the type of chemical analysis to be administered, and it may be administered when he has reasonable grounds to believe that the person charged has committed the specified crime. The chemical analysis shall be performed pursuant to the procedures established under Chapter 20 of the General Statutes applying to motor vehicle violations with the exception that if the person charged refuses to be tested, the charging officer shall, in writing, notify the local office of the Federal Aviation Administration of the individual's refusal. The results of any chemical tests administered pursuant to this section will be admissible into evidence at trial on the offense charged and a written report of the test results shall be made available to the local office of the Federal Aviation Administration.

(e) Punishment. A person violating this section shall be guilty of a misdemeanor and shall be punished by imprisonment of not more than two years or a fine not to

exceed one thousand dollars (\$1,000) or both. Provided, however, for a second and all subsequent convictions of this section, a person shall be guilty of a Class J felony."

Sec. 2. G.S. 63-28 is rewritten to read:

"§ 63-28. Infliction of serious bodily injury by operation of an aircraft while impaired.—(a) Offense. A person commits the offense of infliction of serious bodily injury by operation of an aircraft while impaired if, while in violation of G.S. 63-27, he does serious bodily injury to another.

(b) Defense precluded. The fact that a person charged with violating this section is or has been legally entitled to use alcohol or a drug is not a defense to a charge under this section.

(c) Pleading. In any prosecution for infliction of serious bodily injury by operation of an aircraft while impaired, the pleading is sufficient if it states the time and place of the alleged offense in the usual form and charges that the defendant did serious bodily injury to another while operating an aircraft within this State while subject to an impairing substance.

(d) Punishment. Violation of this section is a Class H felony."

Sec. 3. G.S. 63-26 is rewritten to read:

"§ 63-26. Tampering with aircraft made crime.—Any person who shall, without the consent of the owner, go upon or enter, tamper with or in any way damage or injure any airplane or other aircraft, or any personal property under the control of or being used by any public or private airport or aircraft landing facility shall be guilty of a misdemeanor and shall be punished by the imposition of a fine not to exceed five thousand dollars (\$5,000) or imprisonment of not more than two years, or both, and the showing of willful or malicious intent shall not be necessary to sustain a conviction hereunder."

Sec. 4. A new section is added to Chapter 63 of the General Statutes to read:

"§ 63-26.1. Trespass upon airport property made a crime.—(a) It shall be unlawful for any person to trespass upon airport property. For purposes of this section 'airport property' means property that is under the control of or is being used by any public or private airport or aircraft landing facility.

(b) A person commits the offense of trespass upon airport property if, without authorization, he enters or remains on airport property that is so enclosed or posted or secured as to demonstrate clearly an intent to keep out intruders. Violation of this section is a misdemeanor and upon conviction a person shall be punished by imprisonment for up to six months, a fine of up to two thousand five hundred dollars (\$2,500), or both."

Sec. 5. This act shall become effective October 1, 1987.

In the General Assembly read three times and ratified this the 13th day of August, 1987.