Bill as Introduced

HB 561 – AS INTRODUCED

2003 SESSION

03-1044
09/01

HOUSE BILL ***561***

AN ACT repealing the Uniform Aircraft Financial Responsibility Act.

SPONSORS: Rep. Leber, Merr 35; Rep. Milligan, Hills 58; Rep. Gionet, Graf 11; Rep. Weyler, Rock 79; Rep. Kennedy, Merr 34

COMMITTEE: Public Works and Highways

ANALYSIS

This bill repeals the Uniform Aircraft Financial Responsibility Act and related rulemaking authority of the commissioner of the department of transportation.

This bill was requested by the division of aeronautics, department of transportation.

Explanation: Matter added to current law appears in ***bold italics.***
Matter removed from current law appears [~~in brackets and struckthrough.~~]
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

HB 561 – AS INTRODUCED

03-1044
09/01

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Three

AN ACT repealing the Uniform Aircraft Financial Responsibility Act.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 Repeal. The following are repealed:

I. RSA 422-A, relative to aircraft financial responsibility.

II. RSA 21-L:12, XXXVII, relative to the rulemaking authority of the commissioner of transportation for aircraft financial responsibility requirements, as authorized by RSA 422-A:2.

III. RSA 21-L:12, XXXVIII, relative to the rulemaking authority of the commissioner of transportation for the contents of aircraft accident reports, as authorized by RSA 422-A:3, II(b).

2 Effective Date. This act shall take effect 60 days after its passage.

CHAPTER 88
HB 561 – FINAL VERSION

2003 SESSION

03-1044
09/01

HOUSE BILL ***561***

AN ACT repealing the Uniform Aircraft Financial Responsibility Act.

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CHAPTER 88
HB 561 – FINAL VERSION

03-1044
09/01

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Three

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88:2 Effective Date. This act shall take effect 60 days after its passage.

(Approved: May 30, 2003)
(Effective Date: July 29, 2003

Committee Minutes

Transportation Committee

Hearing Report

To:	Members of the Senate
From:	Liz Ignacio *Legislative Aide*
Re:	**HB 561**– *AN ACT repealing the Uniform Aircraft Financial Responsibility Act.*
Hearing date:	April 24, 2003
Members present:	Sen. Morse, Sen. Martel, Sen. Flanders
Members absent:	Sen. Kenney, Sen. Below

Sponsor(s): Rep. Leber, Merr 35; Rep. Milligan, hills 58; Rep. Gionet, Graf 11; Rep. Weyler, Rock 79; Rep. Kennedy, Merr 34

What the bill does: This bill repeals the Uniform Aircraft Financial Responsibility Act and related rule making authority of the commissioner of the department of transportation. This bill was requested by the division of aeronautics, department of transportation.

Who supports the bill: Rep. Leber, Jack Ferns: Director of the Aeronautics Division – DOT, Paul Sanderson: NHDOT, Ronald Wanner: NH DOT Division of Aeronautics, Rep. Weyler

Who opposes the bill: No one spoke in opposition.

Summary of testimony received:

- The Department of Transportation Division of Aeronautics requested this bill.
- They would like to see the Uniform Aircraft Financial Responsibility Act repealed because the law does not protect citizens from unsafe flight, the penalties are ineffective, and only a small minority of states has a similar law.
- The law was proposed in 1954 in all 50 states but only 5 states adopted it.
- The act has not been updated since its approval in 1954.
- The intent of the Aircraft Financial Responsibility law was to encourage aircraft owners and operators to provide financial security (insurance) prior to flight. However the law is not needed because most people either obtain insurance voluntarily or as a condition of the loan used to purchase the aircraft.
- It parallels state laws that require mandatory insurance of financial responsibility for motor vehicles.
- Since the law does not mandate insurance prior to flight, it only reacts after an accident has already occurred.
- The law has significant gaps in coverage because it doesn't cover student pilots, rental aircraft, or aircraft while on the ground, since it's not in operation.
- Penalties are ineffective in deterring violations.
- Under the law, an airman can lose the privilege of flight. However NH no longer registers airmen and has no power to revoke a federal pilot certificate.
- The law also states that a person may lose the ability to register an aircraft but it doesn't prevent the person from registering the aircraft in the name of a corporation, trust, partnership, or LLC.
- As a practical matter, the statute does not meet its intended goals.

- The law as drafted doesn't really protect NH citizens from the damages that can result from the misuse of aircraft, and thus the Division of Aeronautics recommends the law be repealed.
- If the repeal action is taken, NH will be consistent with the vast majority of states instead of a member of a tiny minority, which have adopted this law.

Funding: No financial impact.

Action: Committee exec'd on the bill, OTP 3-0. Senator Flanders will take it to the floor.

ei
[file: HB 561 report]
Date: 5/1/03

gl

Date: 4/24/03
Time: 1:00 p.m.
Room: 104 LOB

The Senate Committee on Transportation held a hearing on the following:

HB 561 repealing the Uniform Aircraft Financial Responsibility Act.

Members of Committee present: Senator Martel
Senator Below
Senator Flanders
Senator Morse

The Chair, Senator Joseph D. Kenney, opened the hearing.

Senator Chuck Morse, D. 22: We'll open the hearing on 561 and have Representative Leber.

Representative Leber: Thank you Mr. Chairman and members of the Committee. My name is Bill Leber representing Merrimack County District 35 and I'm pleased to introduce House Bill 561 *repealing the Uniform Aircraft Financial Responsibility Act.* I can only say that doing the re-clarification of the Aeronautics Act last couple years this was left out. We transferred one thing that we used in this section of the law was the aircraft accident reporting procedures. That has been picked up in the Aeronautics Laws that was re-clarified last year or 2 years ago. So this was a request from the Division of Aeronautics and I will let them give you the details. I will pass on questions unless you really insist. (laughter)

Senator Chuck Morse, D. 22: We want to talk about Capital budget but we'll save it.

Representative Leber: Oh, well I'll be back next week for that. Thank you very much.

Senator Chuck Morse, D. 22: Jack Ferns

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Jack Ferns: Thank you Mr. Chairman and members of the Committee. My name is Jack Ferns and I'm the Director of Aeronautics for the DOT and I'm here in favor of HB 561. Let me do my best with a brief explanation although a little longer than Representative Leber's.

This law is actually a Uniform Law that was proposed to all 50 states back in the 50's in 1954 but was only adopted in 5 of the states. Thus 45 states do not have a similar law. The intent of the law is to encourage aircraft owners and operators to provide financial security basically insurance prior to the flight. The law is not intended is not needed because most people either obtain insurance voluntarily or as a condition of a loan when they purchase an aircraft. The law has significant gaps in my opinion, in our opinion. It doesn't cover aircraft on the ground and since there is no operation, it does not cover student pilots or those rental pilots (people renting airplanes) since it is directed at the person who operates the airplane – basically a pilot in command. The penalties are non-effective to deter violations in our opinion. As an airman can lose the privilege of flight, NH no longer registers airman. We have no power to revoke a Federal certificate either because the certificates the pilots have are Federal.

The person may lose his ability to register the aircraft but this does not prevent the person from registering the aircraft in the name of a corporation or trust for example. Since the law does not mandate insurance prior to the flight, it can only react after an accident has already occurred. In our opinion, the law does not protect citizens by preventing unsafe flight. The penalties are ineffective and only a tiny minority of the states have a similar law as I stated earlier. Accordingly, we believe it should be repealed and I'd be glad to provide the Chairman of the Committee with my written testimony.

Please see "Repeal of RSA 422-A: Aircraft Financial Responsibility" attached hereto and referred to as Attachment 1.

Senator Chuck Morse, D. 22: Questions of Mr. Ferns?

Representative Leber: Guess we did a great job on the bill. It's too short to debate. (laughter)

Mr. Ferns: I'll be glad to answer questions.

Senator Chuck Morse, D. 22: Would anyone else like to speak on HB 561? No one else, I'll close the hearing on HB 561.

Hearing concluded at 1:07 p.m.

gl

Respectfully submitted:

Gloria Lamoureux

Gloria Lamoureux
Senate Secretary
5/20/03

Attachment 1

Repeal of RSA 422-A: Aircraft Financial Responsibility

1. This law is actually a Uniform Law that was proposed to all 50 states in 1954, but was only adopted in 5 states. Thus **45 states do not have a similar law.**

2. The intent of the law is to encourage aircraft owners and operators to provide financial security (insurance) prior to flight. **The law is not needed because most people either obtain insurance voluntarily or as a condition of the loan used to purchase the aircraft.**

3. The law has significant gaps. It doesn't cover aircraft while on the ground, since there is no operation. **It does not cover student pilots or rental aircraft, since it is directed at the person who operates, (the pilot in command).**

4. The penalties are not effective to deter violations:

   a. An airman can lose the privilege of flight. NH **no longer registers airmen, and we have no power to revoke a federal pilot certificate.**

   b. A person may lose the ability the register the aircraft. **This does not prevent the person from registering the aircraft in the name of a corporation or a trust.**

5. Since the law does not mandate insurance prior to flight, it can only react **after an accident has already occurred.**

6. The law does not protect citizens by preventing unsafe flight, the penalties are ineffective, and only a tiny minority of the states have a similar law. Accordingly, we believe it should be repealed.

MEMORANDUM ON THE REPEAL OF RSA 422 AIRCRAFT FINANCIAL RESPONSIBILITY

2003 Legislative Session.

This law is the New Hampshire version of a Uniform Law called the Uniform Aircraft Financial Responsibility Act. One can research the national experience with a uniform law through a publication entitled, "Uniform Laws Annotated". This research showed the following, as of 1998:

This Uniform Act was approved by the Commissioners on Uniform Laws in 1954, but is presently the law in only five states, which are:

State	Year Enacted	Citation
California	1968	Pub Util Code Sec 24230
Connecticut	1959	CGSA Ch 267 Sec. 15-102
Massachusetts	1955	MGLA C. 90 Sec. 49B
New Hampshire	1955	RSA 422-A
South Carolina	1978	Code 1976 Sec. 55-8-10

This act has not been updated since its approval in 1954. It was drafted in the early 1950's, following an effort by the federal Civil Aeronautics Board (federal) to impose mandatory insurance upon general aviation interests by rule. After protest, the agency withdrew the rule, and the insurance question has been left to regulation by the states. The intention of the act is to provide an incentive for aircraft owners and operators to provide for financial security prior to undertaking flight.

The law parallels state laws that require mandatory insurance or financial responsibility for motor vehicles. At the time Massachusetts adopted this law, it was the only state to require compulsory auto insurance, so it is consistent with their state policy.

The drafters note that the act has significant gaps in its coverage, and will not address:

a. Damages to aircraft while parked, since there is no "operation" in that case.
b. An aircraft operated without the permission of the owner.
c. An operator of an aircraft for whom the owner is not legally responsible.

The last exception is quite important, for it has been construed in California to mean that no student pilots are covered, as the permission given by the owner to an operator means permission given to a certified instructor, and not the unlicensed student. It also means that no rental aircraft are covered, since the pilot who rents is legally responsible for his own operation of the aircraft.

The drafters note that California amended the law to such a degree that it is no longer uniform. South Carolina has addressed the rental aircraft issue by mandating insurance as a condition of a rental, but no other state has done this.

The penalties in the law address two things that would be of value to an airman (pilot), the first being the privilege of flight, and the second being the registration of an aircraft for operation within the state. In fact, neither of these valuable rights is particularly subject to control by this statute.

Aeronautics is a form of interstate commerce, and is federally controlled, which is why airman certificates (pilot licenses) are provided by the Federal Aviation Administration, and not the states. Thus, while it is constitutionally permissible for a state to regulate the privilege of operation within its borders, most do not try to do so, since the license issued is a federal license. No state can force the federal government to revoke an airman certificate. In our recent recodification of New Hampshire aeronautics law, the legislature determined that this state should not register airmen, and that program has now ceased.

The second thing of value is the state registration of the aircraft. It is easy to register a plane under the name of a trust, corporation, partnership, or LLC. Since none of these entities can have an airman certificate, there is no ability to revoke an aircraft registration for error of a pilot. Even if revocation is attempted, it only affects a single state, and an aircraft can be readily moved to any other state as part of interstate commerce. Many states do not have state registration requirements at all, so reciprocity becomes quite a concern. The FAA will not revoke federal registration of an aircraft based upon a state based complaint, unless the conduct also violates a federal rule, which it often does not.

Therefore, as a practical matter, the statute does not meet its intended goals. The analogy to motor vehicle financial responsibility law is no longer practical. The law as drafted does not really protect New Hampshire citizens from the damages that can result from the misuse of aircraft, and thus it is the recommendation of the Division of Aeronautics that the law be repealed. This is the decision that Michigan made in 1995, when it repealed this law. If the repeal action is taken, NH will be consistent with the vast majority of states, instead of a member of a tiny minority which have adopted this particular law.

Speakers

SENATE TRANSPORTATION COMMITTEE

Date 04/24/03 Time 1:00 p.m. Public Hearing on HB HB561

repealing the Uniform Aircraft Financial Responsibility Act.

SPEAKING	FAVOR	OPPOSED	NAME (Please print)	REPRESENTING
☒	☒	☐	Rep BILL LEBER	NH House Dist 35
☒	☒	☐	Jack Ferns	NHDOT Director of Aeronautics
☐	☒	☐	Paul Sanderson	NHDOT Hearings Examiner
☐	☒	☐	Ronald W Wanner	NHDOT Div of Aeronautics
☐	☒	☐	Rep Ken Weyler	Dist 79
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Voting Sheets

Senate Transportaion Committee

EXECUTIVE SESSION

Bill 561

Hearing date: 4/24/03 **Room:** LOB 104

Motion of: OTP

3-0

Made by Senator:			***Seconded by Senator:***		
	Kenney	☐		*Kenney*	☐
	Morse	☐		Morse	☐
	Below	☐		Below	☐
	Flanders	☑		Flanders	☐
	Martel	☐		Martel	☑

Committee Member	***Present***	***Vote***	***Reported out by***
Senator Kenney, Chairman	☐		Sen. Flanders
Senator Morse, Vice Chair	☑		
Senator Below	☐		
Senator Flanders	☑		
Senator Martel	☑		

***Amendments:**

NOTES:

Committee Report

STATE OF NEW HAMPSHIRE

SENATE

REPORT OF THE COMMITTEE

Date:

THE COMMITTEE ON Transportation

to which was referred House Bill 561

AN ACT repealing the Uniform Aircraft Financial Responsibility Act.

VOTE: 3-0

Having considered the same, report the same without amendment and recommend that the bill: **OUGHT TO PASS.**

Senator Robert B. Flanders
For the Committee

HB561 Docket

Next|Prev|Results List|Main|Bill Status

Bill Title: repealing the Uniform Aircraft Financial Responsibility Act.

Date	Body	Description
1/9/2003	**H**	Introduced and ref. to Public Works; HJ 12, p200
1/29/2003	**H**	Hearing Feb 11 11:15 RM201,LOB
2/12/2003	**H**	Maj Report OTP for Feb 20 (Vote 16-1;CC)
2/20/2003	**H**	Passed; HJ 18, p397 + 420
3/13/2003	**S**	Introduced and Ref. to Transportation; SJ 8, Pg.106
4/18/2003	**S**	Hearing; April 24, 2003, Room 104, LOB, 1:00 p.m.; SC19
4/30/2003	**S**	Committee Report; Ought to Pass, [05/08/03]; SC21
5/8/2003	**S**	Ought to Pass, MA, VV; OT3rdg; SJ 15, Pg.365
5/8/2003	**S**	Passed by 3rd Reading Resolution; SJ 15, Pg.370
5/15/2003	**H**	Enrolled; HJ 45, p1435
5/15/2003	**S**	Enrolled; SJ 16, Pg.393
5/30/2003	**H**	Signed by the Governor on 5/30/2003 Eff: 7/29/2003 Chap: 0088

Next|Prev|Results List|Main|Bill Status

Docket Abbreviations