

Chairman Grothman, Vice-Chairman Vukmir, and members of Senate Judiciary and Labor Committee,

Good afternoon. My name is Jonathan Harger and I am here today with my colleague Tom Charpentier representing the Experimental Aircraft Association in Oshkosh. EAA is a membership organization of over ~~180~~ thousand pilots, amateur aircraft builders, and aviation enthusiasts around the world, including nearly 18 thousand members here in Wisconsin.

EAA enthusiastically supports Senate Bill 321. Wisconsin is home to many privately-owned airstrips, and many landowners would be more than happy to open their land to the public were it not for understandable liability concerns. This bill simply seeks to add noncommercial aviation to a list of many activities covered by Wisconsin's Recreational Use Statute.

Sport flying – that is to say non-commercial, recreational aviation – is substantially similar to power sports already enumerated in the Statute such as snowmobiling, ATV riding, and motorcycling. In all of these activities, the participants are acutely aware of their risks and responsibilities, and there is an inherent understanding that the participants are accepting the risks and personally responsible for mitigating them. Because participants in noncommercial aviation fully understand that the burden of risk lies with them, it follows that landowners

should have the risk of liability shifted away from them through this Statute.

Grassroots aviation is something that is in Wisconsin's blood. Every year hundreds of pilots gather in Brodhead for a gathering of small, vintage aircraft actually called "the Grassroots Fly-In." And of course approximately ten thousand aircraft and hundreds of thousands of aviation lovers come to EAA's AirVenture annually on the last week of July, an event that has made Oshkosh synonymous with recreational aviation all over the world. Many of these pilots would cherish the opportunity to explore our state's many private airfields and the communities that host them; this bill promotes and encourages that type of exploration.

EAA believes that this bill encourages the spirit of aviation found at small airstrips all over Wisconsin where friends gather to have fun with their airplanes. Flying is a social activity, and we want to foster and promote our aviation community. Public-use, privately owned airports are a key part of keeping aviation affordable and accessible for many people.

Finally, we believe that this bill, which follows the precedent of 26 other states that have enacted similar legislation, is in the public interest because it encourages more land to be opened to public use, subject of course to appropriate state, county, and municipal laws. Since the Wisconsin Legislature first passed

our recreational use statute in 1963, landowners have welcomed the public onto their land and created a mutually beneficial public/private partnership geared towards the enjoyment of our beautiful State.

At its heart, this Bill encourages what aviation has always done – bringing people together to celebrate the love of flight. Because of that, EAA stands 100% behind this legislation.

Thank you very much for your time today; we would be happy to answer any questions you might have.



JEFFREY A. PITMAN
PRESIDENT
MILWAUKEE

CHRISTOPHER D. STOMBAUGH
PRESIDENT-ELECT
PLATTEVILLE

ANN S. JACOBS
VICE-PRESIDENT
MILWAUKEE

RUSSELL T. GOLLA
SECRETARY
STEVENS POINT

BENJAMIN S. WAGNER
TREASURER
MILWAUKEE

EDWARD J. VOPAL
PAST PRESIDENT
GREEN BAY

JANE E. GARROTT
EXECUTIVE DIRECTOR

**Testimony of
Joe Strohl
on behalf of the
Wisconsin Association for Justice
before the
Senate Judiciary and Labor Committee
Senator Glenn Grothman, Chair**

on

2013 Senate Bill 321

October 9, 2013

CHAIRMAN GROTHMAN AND MEMBERS OF THE COMMITTEE, my name is Joe Strohl. I am representing the Wisconsin Association for Justice (WAJ) in opposing Senate Bill 321 (SB-321). Thank you for this opportunity to testify.

SB-321 adds noncommercial aviation to the list of recreational activities in the recreational immunity statute, Wis. Stat. §§ 895.52 and 895.525.

The bill authors purport to want to cover emergency situations *only* for pilots, the bill is in fact much broader, covering *all* noncommercial aviation activities. Emergency landings of aircrafts on private airstrips could occur now without any threat of liability for the property owner. WAJ is not aware of a case where a property owner has been sued in an emergency landing situation. The intended purpose of the bill would be superfluous.

The Legislative Reference Bureau analysis at the beginning of the bill states that this law will affect private land owners. That statement is not complete because the recreational immunity statute also covers state or local government and non-profit organizations.

Under Wis. Stat. § 895.52 (d) "Owner" means either of the following:

1. A person, including a *governmental body* or *nonprofit organization*, that owns, leases or occupies property."

This bill does not just cover private landowners. Is it really the intent of the authors to cover municipal airports?

The recreational immunity statute has been in place for almost 30 years and covers a wide variety of activities. The immunity granted to landowners under the law is broad and encompassing. Under the law, the landowner *owes no duty* to keep the property safe for recreational activities or to give recreational users a warning of an unsafe condition on the property. By adding noncommercial aviation to the bill, *the entire risk of injury or death for any noncommercial aviation activity would be assumed by the person flying*. So if a tractor is left on the runway or the runway was plowed up, conditions that may not be apparent until close to the ground, the landowner is immune. This bill would make it less safe for pilots and passengers.

As currently proposed, the immunity provided under Wis. Stat. § 895.52 provides too sweeping of protection for participants in noncommercial aviation. It covers not only private landowners, but state and local governments as well as non-profit organizations. SB-321 is both too broad and unnecessary and should be opposed.