



AIRCRAFT OWNERS AND PILOTS ASSOCIATION

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August 8, 2007

The Honorable Gloria Romero
Chair, Committee on Public Safety
California State Senate
State Capitol, Room 313
Sacramento, CA 95814

RE: Criminal Background Checks for operators of aircraft

Dear Senator Romero:

You will recall that earlier this year you had before you SB 798 by Senator Jim Battin, which would have required background checks for individuals wishing to receive flight instruction in the State of California. Senator Battin offered this bill at the request of the Governor's Office of Homeland Security. On behalf of more than 50,000 California members – of more than 413,000 nationwide – of the Aircraft Owners and Pilots Association (AOPA), we urged you and your committee to reject SB 798 for several reasons, chief amongst which was the fact that the United States Congress has clearly pre-empted the field pilot qualification to the federal government.

At the time of your hearing, AOPA had already filed a lawsuit with the Federal District Court in Albany seeking to overturn a similar law recently adopted by the State of New York. During the hearing, I understand that you questioned the advisability of California following New York's lead while that matter was being adjudicated. I am pleased to report that last week, a hearing was held on AOPA's motion for summary judgment in this case before U.S. District Judge Gary Sharpe. At that hearing, Judge Sharpe ruled from the bench and granted AOPA's motion for Summary Judgment in this case.

Judge Sharpe's decision, although brief, was strong and analytical, citing Congress' original intent in adopting several statutes, particularly the Federal Aviation Act of 1958 (and the Aviation and Transportation Security Act of 2001). In his comments, the judge acknowledged previous decisions from the 1st and 3rd U.S. Circuit courts of appeals in which those courts recognized the federal government's intent to occupy the field of aviation safety and security. Judge Sharpe concurred with their rationale that the federal government has pre-empted the field of aviation safety and security to create a single uniform system for the safe and efficient use of airspace under the control of the Federal Aviation Administration and, following the events of 9/11, the Transportation Security Administration. Thus, he granted our motion for summary judgment for declaratory judgment, finding the New York law unconstitutional and unenforceable, permanently and immediately enjoining the state from enforcing any part of the law.

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I hope that you will find this information useful should the Committee on Public Safety be asked to consider any similar legislation in the future. Please be assured that AOPA always stands ready to work with legislators to develop reasonable effective programs that improve aviation security while protecting the nation's vital general aviation industry. As always, we hope you will contact us should you ever have any questions or concerns about general aviation.

Sincerely,

A handwritten signature in black ink, appearing to read 'Gregory Pecoraro', with a long horizontal flourish extending to the right.

Gregory Pecoraro
Vice President
Regional Affairs

cc: Senator Jim Battin, California State Senate
Daniel Jones, California Office of Homeland Security