

STATE OF CALIFORNIA

Public Utilities Commission
San Francisco

M e m o r a n d u m

Date: March 30, 2004

To: The Commission
(Meeting of April 1, 2004)

From: Alan LoFaso, Director
Office of Governmental Affairs (OGA) — Sacramento

**Subject: SB 1704 (Chesbro). Commercial air carriers: hot
air balloons.**
As introduced February 20, 2004

Recommendation:

Summary: This bill would remove hot air balloons and hot air balloon operators from Commission jurisdiction and from specified insurance coverage requirements.

Existing law, P.U. Code secs. 5500-5512, directs the Commission to require liability insurance for all commercial air operators operating aircraft in California.¹ Existing law, P.U. Code sec. 5500, defines “commercial air operator” as “any person owning, controlling, operating, renting or managing aircraft for any commercial purpose for compensation”. Existing law, P.U. Code sec. 5501, defines “aircraft” as “any contrivance used for navigation of, or flight in, the air”.

Existing law, P.U. Code sec. 5505, directs the Commission, after a public hearing, to set the amount of liability insurance “set the amount of liability insurance, required by Section 5503, which is reasonably necessary to provide adequate compensation for damage incurred through an accident involving a commercial air operator”.

Pursuant to these statutes, the Commission adopted a general order (now G.O. 120-C) in 1972 requiring commercial air operators to procure liability insurance and to file

¹ Section 5503. “The Public Utilities Commission shall require every commercial air operator to procure, and continue in effect so long as the commercial air operator continues to offer his services for compensation, adequate protection against liability imposed by law upon a commercial air operator and also upon any person using, operating or renting an aircraft with the permission, expressed or implied, of a commercial air operator for the payment of damages for personal bodily injuries, including death resulting there from, and property damage as a result of an accident.”

evidence of that insurance with the Commission. Since most commercial balloon operations carry 20 or fewer passengers per balloon, the applicable provision of G.O. 120-C provides in pertinent part:

(A) Aircraft with Passenger Seating Capacity, 1 to 20 persons.

1. Aircraft Passenger Bodily Injury and Death Liability -- a minimum for one passenger seat of at least \$100,000 and a minimum for each accident in any one aircraft of at least an amount equal to the total produced by multiplying \$100,000 by the number of passenger seats in the aircraft.

2. Aircraft Bodily Injury and Death Liability (excluding persons aboard aircraft) -- a minimum of \$100,000 for one person in one accident, and a minimum of \$300,000 for each accident.

3. Aircraft Property Damage Liability -- a minimum of \$100,000 for each accident.

(G.O. 120-C, 1(A)1-3)

This bill would exempt hot balloon operators from the definition of “commercial air operator” and hot air balloons from the definition of “aircraft” in existing law, thereby providing that the Commission would no longer require hot air balloon operators to procure and maintain minimum levels of liability insurance protection for passengers and persons on the ground.

Analysis: Commercial hot air ballooning was a relatively small industry in California until the 1980s, when it began expanding to serve customer demand. Petitioners state that today approximately 50 companies offer balloon rides throughout California. The operations are concentrated in popular tourist regions, including the Napa Valley, Sonoma Valley, Palm Springs, Temecula, and San Diego areas. Petitioners state that most of the commercial balloons are designed to carry more than six passengers, and the largest balloons can carry up to 16 passengers. Hot air balloons are certificated and regulated by the FAA. Airworthiness standards for manned balloons are set forth in 14 CFR Part 31, pilots and instructors must be licensed under 14 CFR Part 61, and operating and flight rules are set forth in 14 CFR Part 91.

On May 30, 2003, hot air balloon operators and the Professional Balloon Pilots Association, among others, filed an Application and Petition (A.03-05-039 and P.03-05-040) for relief from the minimum levels of liability insurance coverage required for balloon operators under existing law. The Application/Petition (Application) was filed after many months of communication with staff concerning the inability of these operators to obtain minimum levels of liability insurance coverage. Applicants were ultimately concerned that they would have to either cease operations or operate in violation of current law.

In July of 2003, the Commission granted relief in D. 03-07-036, modified by D. 03-07-047, by authorizing hot air balloon operators to: (1) file insurance policies specifying only listed aircraft with limited operating authority, (2) limit their operating authority on the number passengers per balloon according to levels of coverage on file with the Commission, and (3) self-insure, as specified.²

These decisions provided interim relief only and directed the assigned ALJ to promptly convene public hearings to consider applicants' request for relief from insurance requirements of GO 120-C and allow for full consideration of the insurance requirements applicable to hot air balloon operators set forth in existing law. On

On March 23, 2004, a Proposed Decision (PD) in the Application issued.³ The PD concludes that insurance complying with GO 120-C has now become available to balloon operators rendering major revision of GO 120-C is unnecessary, and the PD would make permanent some of the relief put forward in D.03-07-047 and adopt revisions to GO 120-C intended to encourage other insurers to provide coverage to this important tourist-oriented industry. PD would, among other things, eliminate the \$400,000 amount of liability insurance coverage required for damages and injuries on the ground provided that the insurance provides a minimum of \$100,000 per passenger seat liability and a combined single limit minimum of \$1 million applicable to all claims per accident. (PD at 13.) All of the proposed changes to GO 120-C are set forth in this memo in Appendix A, which restates the PD's proposed order.

The PD also recommends that the Commission not cede jurisdiction over hot air balloon operators as requested by applicants because, among other reasons, in the 10-year period from January 1, 1992, through December 31, 2001, the National Transportation Safety Board review of balloon accidents indicated that there had been 15 reported accidents with three fatalities in two of the accidents as well as four accidents in which six of the 39 passengers were injured. The PD concludes that,

On this record, however, we are not prepared to join Petitioners in [their] request [to cede jurisdiction] absent a showing that another government agency would take the place of the Commission in enforcing minimum insurance requirements. (PD at p. 9.)

The passage of SB 1704 would result in hot air balloon operators no longer being required to procure and maintain liability insurance protection for passengers and persons on the ground. The Commission would no longer have to determine the level of adequate liability insurance protection required by balloon operators, would no longer have to accept proof of adequate insurance liability protection from the operators, and would no longer have to

² See Modified Interim Plan in D. 03-07-036, modified by D. 03-07-047, Ordering paragraphs 2-8.

³ See Agenda ID# 3387.

enforce the set amount of liability insurance protection for balloon operators under G.O. 120-C.

Liability insurance coverage requirements of various types of modes of transportation is set forth in Appendix B. Other non-Commission regulated entities, such as amusement park rides, are also subject to insurance requirements under existing law.⁴ The Occupational Health and Safety Branch of the Department of Industrial Relations enforce these requirements.

A substantial portion of text of this memo was provided by Patrick Berdge of the Commission's Legal Division.

LEGISLATIVE HISTORY

SB 1704 was introduced on February 12, 2004 and referred to the Senate Energy, Utilities, and Communications Committee on March 11.

SUPPORT/OPPOSITION

Support: Support: Napa Valley Aloft, Inc.; Professional Balloon Pilots Association of Napa County, Inc.; Balloon Excelsior; Calistoga Balloons of Napa Valley; California Dreamin'; Airship and Balloon Company; Balloon Above the Desert, Inc.; Balloon Federation of America; Up & Away Ballooning, Inc.; High Hopes; Delta Relocation Services, Inc.; Napa Valley Balloons; Merryvale Vineyards; six individuals.

Opposition: None on file.

LEGISLATIVE STAFF CONTACT

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Date: March 30, 2004

⁴ See Labor Code sec. 7900 et. seq. and Labor Code sec. 7912, specifically.

Appendix A

ORDER

IT IS ORDERED that:

1. Petition (P.) 03-05-040 for amendment of General Order (GO) 120-C is granted to the extent set forth below.
2. The Modified Interim Plan authorized in Application (A.) 03-05-039 by Interim Decision 03-07-047 is terminated and replaced by the amendment to GO 120-C set forth below.
3. GO 120-C is amended by adding the following Section 11:

“11. This section applies only to lighter-than-air aircraft that is not engine-driven and that sustains flight through the use of either gas buoyancy or an airborne heater (manned balloon).

“(A) As an alternative to providing an insurance policy with three separate limits as set forth in Section 1(A) – *i.e.*, \$100,000 per passenger seat per accident; \$300,000 per accident for those on the ground, and \$100,000 per accident for property damage liability – a manned balloon operator may meet the liability requirement of this general order through a combined single limit policy that provides a minimum of \$100,000 per passenger seat per accident and a combined single limit minimum of \$1 million applicable to all claims per accident.

“(B) As an alternative to the requirement of Section 8 (requiring that evidence of coverage shall apply to any and all commercial flights operated by the insured), a manned balloon operator may file an insurance policy or policies with the Commission that cover only specifically listed aircraft. Any manned balloon operator that elects this option will have its operating authority limited to the balloon or balloons specifically named in the policy or policies on file with the Commission until it files proof of additional insurance.

“(C) As an alternative to the requirement of Section 1(A)(1) (requiring a minimum liability of \$100,000 per seat for all aircraft flown), a manned balloon operator may limit its operations by filing with this Commission an affidavit describing the limits on the number of passengers it will carry in each of its manned balloons so that the insurance it has on file with the Commission will continue to provide \$100,000 per passenger aircraft passenger bodily injury and death liability coverage, as well as \$300,000 liability coverage for injuries on the ground and \$100,000 property damage liability. Any manned balloon operator that elects this option will have its operating authority limited accordingly until it increases its coverage.”

4. A.03-05-039 and P.03-05-040 are closed.

Appendix B

Comparison Exhibit

Liability insurance coverage for various modes of transportation¹

Gen. Order	Single Injury or Death	Property Damage	Total for all injuries or death	Combined Single Limit Coverage
G.O. 100-M ² (Household Goods Carrier)	\$250,000	\$100,000	\$500,000	\$600,000
49 C.F.R. Part 387.9 ³ (Highway Carrier of Radioactive Materials)	\$5,000,000	No Separate Limit	\$5,000,000	\$5,000,000
49 C.F.R. Part 387.9 (Highway Carrier of Haz Mats)	\$1,000,000	No Separate Limit	\$1,000,000	\$1,000,000

¹ Derived from *Investigation on the Commission's own motion to amend General Orders 101-C, 115-B, 111-B, 121-A and 120-C to increase minimum public liability and property damage insurance requirements for passenger stage corporations, charter-party carriers, vessel common carriers, for-hire vessels, intrastate passenger air carriers and commercial air operators, delete requirements for federally authorized or exempted air carriers; and make certain administrative changes in General Order 100-J*, Decision No. 94-09-088 in OII (Rulemaking) No. 83-08-03 (Filed August 17, 1983), 1984 Cal. PUC LEXIS 1012, 16 CPUC2d 192, and from the cited General Orders.

² Rules and Regulations requiring all highway carriers, freight forwarders which operate motor vehicles', household goods carriers, highway carriers engaged in interstate or foreign transportation of property for compensation which are exempt from regulation by the Interstate Commerce Commission, and Integrated Intermodal Small Package Carriers, to provide and thereafter continue in effect adequate protection against liability imposed by law upon such carriers for the payment of damages for personal bodily injuries (including death resulting therefrom) and damage to or destruction of property. Adopted December 17, 1993. Effective January 1, 1994 (Resolution No. 18602)

³ See: G.O. 100-M which is no longer applicable to Highway Carriers other than Household Goods Carriers.

Gen. Order	Single Injury or Death	Property Damage	Total for all injuries or death	Combined Single Limit Coverage
G.O. 101-E ⁴ (16 passengers +)	\$5,000,000	No Separate Limit	\$5,000,000	\$5,000,000
G.O. 101-E (8 - 15 passengers)	\$1,500,000	No Separate Limit	\$1,500,000	\$1,500,000
G.O. 101-E (1 - 7 passengers)	\$750,000	No Separate Limit	\$750,000	\$750,000
G.O. 111-C ⁵ (1 – 99 passengers)	\$150,000	\$100,000	\$1,000,000	\$1,100,000

⁴ Rules requiring all passenger stage corporation subject to the Public Utilities Code to provide and thereafter continue in effect adequate protection against liability imposed by law upon such carriers for the payment of damages for personal bodily injuries (including death resulting therefrom) and damage to or destruction of property. Adopted November 6, 1985. Effective November 19, 1985. (Resolution PE-2149)

⁵ Rules and Regulations requiring all vessel common carriers subject to the Public Utilities Code to provide and thereafter continue in effect adequate protection against liability imposed by law upon such carriers for the payment of damages for personal bodily injuries (including death resulting therefrom) and damage to or destruction of property. Adopted September 6, 1984. Effective January 1, 1985. (Decision 84-09-088, OII 83-08-03). Amended December 5, 1984. Effective December 5, 1984: Decision 84-12-001.

Gen. Order	Single Injury or Death	Property Damage	Total for all injuries or death	Combined Single Limit Coverage
G.O. 115-F ⁶ (16 passengers +)	\$5,000,000	No Separate Limit	\$5,000,000	\$5,000,000
G.O. 115-F (8 - 15 passengers)	\$1,500,000	No Separate Limit	\$1,500,000	\$1,500,000
G.O. 115-F (1 - 7 passengers)	\$750,000	No Separate Limit	\$750,000	\$750,000
G.O. 115-F (Class C - Chase Vehicles) ⁷	\$750,000	No Separate Limit	\$750,000	\$750,000

⁶ Rules requiring all charter-party carriers of passengers subject to the Public Utilities Code to provide and thereafter continue in effect adequate protection against liability imposed by law upon such carriers for the payment of damages for personal bodily injuries (including death resulting therefrom) and damage to or destruction of property. Adopted March 16, 1994, effective March 16, 1994 (Resolution TL-18617)

⁷ Pursuant to special provisions in the California Public Utilities Code, chase cars have special insurance rules. E.g., Cal. Pub. Util. Code § 5353(m)(1), “[t]ransportation of hot air balloon ride passengers in a balloon chase vehicle from the balloon landing site back to the original take-off site, provided that the balloon ride was conducted by a balloonist who meets all of the following conditions: (A) Does not fly more than a total of 30 passenger rides for compensation annually. (B) Does not provide any preflight ground transportation services in their vehicles. (C) In providing return transportation to the launch site from landing does not drive more than 300 miles annually.” Chase cars must have liability protection to cover “damages for personal bodily injuries, including death resulting therefrom; protection against a total liability of the carrier of passengers on account of bodily injuries to, or death of, more than one person as a result of any one accident; and protection against damage or destruction of property.” *See also*: Cal. Pub. Util. Code §5391.2, “Notwithstanding Section 5391, in granting certificates to the holders of class C certificates, the commission shall require that those carriers procure and continue in effect adequate protection against liability imposed by law upon the carrier for the payment of damages for personal bodily injuries, including death

Gen. Order	Single Injury or Death	Property Damage	Total for all injuries or death	Combined Single Limit Coverage
G.O. 120-C ⁸	\$100,000	\$100,000	\$300,000 + \$100,000 per passenger	\$100,000 prop + \$300,000 + \$100,000 per passenger
G.O. 121-A ⁹ (7 - 16 passengers)	\$100,000	\$50,000	\$350,000	\$400,000
G.O. 121-A (1 - 6 passengers)	\$100,000	\$50,000	\$300,000	\$350,000

Footnote continued on next page

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resulting therefrom; protection against a total liability of the carrier of passengers on account of bodily injuries to, or death of, more than one person as a result of any one accident; and protection against damage or destruction of property. The requirement of that assurance of protection against liability shall be seven hundred fifty thousand dollars (\$ 750,000) per accident.” Cal. Pub. Util. Code § 5383 defines Class C certificates as transportation “services provided incidental to commercial balloon operations, commercial river rafting, or skiing where no additional compensation is provided for the transportation.”

⁸ Rules requiring all commercial air operators and passenger air carriers to provide and thereafter continue in effect adequate protection against liability imposed by law upon such operators for the payment of damages for personal bodily injuries (including death resulting therefrom) and damage to or destruction of property. Adopted March 21, 1972, effective May 1, 1972 (Decision No. 79817 Case No. 7777)

⁹ Rules requiring all for-hire vessel operators to provide and thereafter continue in effect adequate protection against liability imposed by law upon such for-hire vessel operators for the payment of damages for personal bodily injuries (including death resulting therefrom) and damage to or destruction of property. Adopted by Decision No. 74925 in Case No. 7778, effective March 1, 1969.

Gen. Order	Single Injury or Death	Property Damage	Total for all injuries or death	Combined Single Limit Coverage
G.O. 160-A ¹⁰ * Tax Exempt (16+ passengers)	\$1,500,000 + \$3,500,000	No Separate Limit	\$1,500,000 + \$3,500,000	\$1,500,000 + \$3,500,000
G.O. 160-A Tax Exempt (9 - 15 passengers)	\$1,000,000	No Separate Limit	\$1,000,000	\$1,000,000
G.O. 160-A Tax Exempt (1 - 8 passengers)	\$500,000	No Separate Limit	\$500,000	\$500,000
G.O. 160-A Camp Vehicle (16+ passengers)	\$1,500,000 + \$3,500,000	No Separate Limit	\$1,500,000 + \$3,500,000	\$1,500,000 + \$3,500,000

¹⁰ Rules and regulations requiring private carriers of passengers, as defined by Public Utilities Code Section 4001, and organizations that provide transportation services incidental to operation of a youth camp which are required to register as private carriers pursuant to Public Utilities Code Section 5353(n)(2)(A), to provide and thereafter continue in effect adequate protection against liability imposed by law upon such carriers for the payment of damages for personal bodily injuries (including death resulting therefrom) and damage to or destruction of property. Adopted December 17, 1998 by Resolution TL 18877.

* **Special Notice:** Both G.O. 160 and its replacement, G.O. 160-A, provide that private, not-for-hire carriers (see Cal. Pub. Util. Code § 4001) may have the minimum level of insurance coverage required under California Vehicle Code §§ 16500, 16500.5, and 16056, i.e., \$15,000 in any one accident, at least \$30,000 for injury or death to two or more persons, and \$5,000 for property damage. These carriers include, for example, church groups carrying church-members to and from church functions and employers carrying employees to and from jobsites.

Gen. Order	Single Injury or Death	Property Damage	Total for all injuries or death	Combined Single Limit Coverage
G.O. 160-A Camp Vehicle (9 - 15 passengers)	\$1,000,000 + \$500,000	No Separate Limit	\$1,000,000 + \$500,000	\$1,000,000 + \$500,000
G.O. 160-A Camp Vehicle (1- 8 passengers)	\$500,000 + \$250,000	No Separate Limit	\$500,000 + \$250,000	\$500,000 + \$250,000

(1) Staff draws attention to the fact that \$2 million in accident liability insurance is being offered by Houston Casualty Company to hot air balloon operators. (Protestant Response to Scoping Memo, Robert C. Welker, October 10, 2003.) This insurance coverage is fully compliant with G.O. 120-C and California Insurance Code § 1763. Several proofs of insurance by Houston Casualty Company have been submitted recently to the CPUC on behalf of balloon operators by filing a CPUC Form PE 794.

(2) Both petitioners and staff agree that under a number of the CPUC's G.O.s, there is not a separate amount of insurance reserved exclusively for property damages. For instance, the minimum insurance coverage required under G.O. 101-E, G.O. 115-F, and G.O. 160-A, have no separate limit for property damages provisions (except for the Vehicle Code minimum insurance levels in G.O. 160-A for private, not-for-hire carriers). (See Petitioners' Responses to Scoping Memo pp. 5-6.) Staff also notes that the current limits in G.O. 120-C are expressed as "a minimum for each accident in any one aircraft" and believes this approach is worthy of continuation.

(3) Both petitioners and staff also appear to agree that a number of G.O.s provide total personal injury coverage in an amount equal to approximately \$100,000 times the maximum number of passengers. (Petitioners' Responses to Scoping Memo p. 5.) Motor Carriers of passengers under federal regulations must also provide minimum liability insurance coverage of \$1,500,000 for vehicles carrying 15 passengers or fewer and \$5,000,000 for vehicles carrying 16 passengers or more. (49 C.F.R. Parts 387.9 and 387.303.) Assuming buses generally carry no more than 50 passengers, these minimum requirements provide liability insurance of roughly \$100,000 per passenger. Staff also notes that in G.O.s 101-E and 115-F (passenger stage carriers and charter party carriers) the policy limit is set not based on the precise number of passengers carried by the vehicle but on a range of the number of passengers carried. Thus, if a passenger stage carrier in the 16 passenger plus category, rather than having a capacity of 50 passengers, has a capacity of only 30 passengers, those minimum insurance requirements actually provide liability insurance well in excess of \$100,000 (e.g., \$5,000,000 divided by 30 equals \$166,666.66).

(4) However, since in G.O. 101-E, G.O. 115-F, and G.O. 160-A, there are no separate sublimits for personal injury of an individual, if only one individual is injured, he or she may obtain up to the full amount of coverage if that individual can prove such costs resulting from the injuries.

(5) Petitioners point out that the insurance policies provided to balloon operators may, in the absence of the requisite certificate to the CPUC, provide a lesser amount of insurance than the required amount under the G.O. However, petitioners point out, and staff agrees, that "[e]ven if the actual policy limits did not meet the requirements

of GO 120C, the PE-794, once signed and filed, [makes] the insurance company responsible for those limits in the case of an accident.” (Petitioners’ Responses to Scoping Memo at p. 19.)

(6) Petitioners propose to change who takes the risk with respect to policy limits and this proposed change is the crux of staff’s concern with respect to the Petition to Amend General Order 120-C. The present legal effect of the Commission’s liability insurance requirements is that the insurer takes the risk of paying out more than the nominal limits on the face of the policy which petitioners state is typically \$1 million, i.e., the insurer is required to pay the public the amount required by G.O. 120-C regardless of anything in the underlying insurance policy. The Petitioners’ proposed amendments would have the public, rather than the insurer, take the risk for injuries or death in excess of the \$1,000,000.

(7) Staff asserts that it is not generally true that the larger the capacity of the mode of transportation, the smaller the per passenger requirement. (Petitioners’ Responses to Scoping Memo at p. 20.) Petitioners focus on the fact that for for-hire vessels (G.O. 121-A), the “per passenger requirement” (i.e., total policy limit divided by the total number of passengers) decreases as the size of the vessel increases. While this is true for for-hire vessels, the Comparison Exhibit demonstrates that, generally, the “per passenger requirement” stays at approximately \$100,000 per passenger. Furthermore, even for for-hire vessels, while the “per passenger requirement” declines with increasing vessel size, the limit for bodily injuries or death of one person remains for a single person at \$100,000 regardless of vessel size.

(8) Finally, staff notes that various G.O.s for liability insurance for transportation modes were adopted at different dates. For example, the Household Goods Carrier (G.O. 100-M) and Charter Party Carriers (G.O. 115-F) minimum insurance limits were last changed in December, 1993, and March, 1984, respectively; the federal minimums (49 C.F.R. Parts 387.9 and 387.303) were last set in January, 1984; G.O. 160-A was first adopted in 1990 because of new legislation and revised in December, 1998; Passenger Stage Corporations minimum insurance limits (G.O. 101-E) were last changed in November, 1985; the hot air balloon minimum insurance limits (G.O. 120-C) were last changed in March, 1972; and the for-hire vessel operators minimum insurance limits (G.O. 121-A) were last changed in March, 1969. Staff draws attention to the fact that G.O. 121-A insurance limits, which petitioners rely on for their argument that a larger transportation vehicle can provide considerably less insurance than \$100,000 times the number of passengers carried, is the oldest of these G.O.s and was last revised over 30 years ago. It will be the ALJ’s burden to determine whether these liability insurance limits adequately reflect current circumstances.

BILL LANGUAGE:

BILL NUMBER: SB 1704 INTRODUCED
 BILL TEXT

INTRODUCED BY Senator Chesbro

FEBRUARY 20, 2004

An act to amend Sections 5500 and 5501 of the Public Utilities Code, relating to commercial common carriers.

LEGISLATIVE COUNSEL'S DIGEST

SB 1704, as introduced, Chesbro. Commercial air carriers: hot air balloons.

Existing law requires the Public Utilities Commission to require every commercial air operator, as defined, to procure and continue in effect, adequate protection against liability for personal bodily injuries and property damage as a result of an accident, that may be imposed by law upon the operator and upon any person using, operating, or renting an aircraft, as defined, with the permission of the operator.

This bill would exclude a corporation or person furnishing or providing transportation by hot air balloon for entertainment or recreational purposes from the definitions of commercial air operator and aircraft.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 5500 of the Public Utilities Code is amended to read:

5500. As used in this article, "commercial air operator" means any person owning, controlling, operating, renting, or managing aircraft for any commercial purpose for compensation. *"Commercial air operator" does not include a person owning, controlling, operating, renting, managing, furnishing, or otherwise providing transportation by hot air balloon for entertainment or recreational purposes.*

SEC. 2. Section 5501 of the Public Utilities Code is amended to read:

5501. As used in this article, "aircraft" means any contrivance used for navigation of, or flight in, the air. *"Aircraft" does not include a hot air balloon furnished or providing transportation for entertainment or recreational purposes.*