

AMENDED IN ASSEMBLY APRIL 12, 2004

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 2430

Introduced by Assembly Member Wiggins
(Principal coauthor: Senator Chesbro)

February 19, 2004

An act to *add Section 2174.5 to the Civil Code, and to amend Sections 5500 and 5501 of the Public Utilities Code, relating to commercial air carriers.*

LEGISLATIVE COUNSEL'S DIGEST

AB 2430, as amended, Wiggins. 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.

This bill would require that any person providing transportation by hot air balloon for entertainment or recreational purposes provide passengers with a copy of a release of liability agreement, as specified, and require every passenger to execute the release of liability agreement.

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

The people of the State of California do enact as follows:

1 SECTION 1. Section 2174.5 is added to the Civil Code, to
2 read:

3 2174.5. Notwithstanding any other law, including Section
4 2175, any person owning, controlling, operating, renting,
5 managing, furnishing, or otherwise providing transportation by
6 hot air balloon for entertainment or recreational purposes shall
7 provide every passenger with a copy of a release of liability
8 agreement and shall require every passenger to execute a release
9 of liability agreement. A copy of the release of liability agreement
10 shall be provided to every passenger prior to any payment by the
11 passenger. The release of liability agreement shall be in 14 point
12 boldface type if printed, or in boldface capital letters if typed. The
13 release of liability agreement shall read as follows:

14 By signing this agreement, I am assuming personal
15 responsibility for my decision to take part in this outdoor adventure
16 of hot air ballooning provided by [name of hot air balloon
17 operator], its officers, employees, agents, and subcontractors, and
18 I am expressly accepting the risks that are and may be inherent in
19 ballooning and its associated activities on the ground, with the
20 knowledge that hot air ballooning is subject to risks that include,
21 but are not limited to, accident, negligence, error, inconvenience,
22 injury and, in extremely rare cases, death, associated with outdoor
23 adventures, hot air ballooning and aviation activities. By signing
24 this agreement, I understand that I am releasing from all liability
25 [name of hot air balloon operator], its officers, agents, employees,
26 subcontractors and the owners of the land used for launches and
27 landings. I have carefully read this agreement, have had the
28 opportunity to ask for clarification and further details, and fully
29 understand its contents and my responsibility as a passenger. I also
30 understand that should I decide not to fly after reading this that the
31 cancellation penalties will not apply.

32 SEC. 2. Section 5500 of the Public Utilities Code is amended
33 to read:

34 5500. As used in this article, “commercial air operator”
35 means any person owning, controlling, operating, renting, or

1 managing aircraft for any commercial purpose for compensation.
2 “Commercial air operator” does not include any person owning,
3 controlling, operating, renting, managing, furnishing, or
4 otherwise providing transportation by hot air balloon for
5 entertainment or recreational purposes.

6 ~~SEC. 2.—~~

7 SEC. 3. Section 5501 of the Public Utilities Code is amended
8 to read:

9 5501. As used in this article, “aircraft” means any
10 contrivance used for navigation of, or flight in, the air. “Aircraft”
11 does not include a hot air balloon furnished or providing
12 transportation for entertainment or recreational purposes.

