



EAA Chapter 100

May 2014 Newsletter

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EAA Chapter 100 is a nonprofit association involved in the promotion of aviation through adult and youth education, hands-on training, building and maintenance of experimental aircraft, and through community awareness programs.

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Reader submissions and comments are strongly encouraged.

May Hangar Flying Event

This month's hangar flying event begins our Summer schedule. From May through October our meetings will be held the second Saturday of the month at 9:00 AM.

When: Saturday, May 10 – 9:00 AM

Where: Chapter Hangar – Dodge Center

What: The meeting will be hosted by Dan Crandal and we will plan to complete the sanding and varnishing of the seating planks for the fly-in breakfast.

We will also be discussing the proposed addition to the chapter hangar. Dan Crandal has put together the initial plan and budget information. We will be voting whether or not to move forward on the project.

All members are encouraged to get their airplanes out and fly to the meeting. Cross your fingers for good weather!

Father's Day Fly-In Breakfast

Time to get the dates on the calendar and get ready for this year's Father's Day Fly-In Breakfast. We are looking for the usual help as well as people willing to commit to being there ahead of time. We will be calling members to try and firm up who is planning to be there.

Dates to plan for:

- Saturday June 7th – Hangar Cleanout
- Saturday June 14th – Setup
- Sunday June 15th - Breakfast

Last Saturday Work Party

Thanks to everyone who took time out of their weekend last Saturday to come out and sand and varnish seating planks. We finished almost half of them and they look great.

Thanks Gordy for spearheading this project.



Legal Issues for Pilots

From AVWeb Flash
Volume 21, Number 17a

By Rick Durden

By the time a person finishes training for a pilot certificate, he or she has gotten a good introduction to a small corner of the FARs, has probably learned nothing about what's involved in buying or owning an airplane and had an immersion in aviation Old Wives' Tales (OWT) regarding legal obligations and potential liabilities as a pilot. This article is to briefly



look at some of the legal issues a pilot might face, outline how to approach them and try to debunk a few of the OWTs that are still floating around. We'll take a look at how to deal with a ramp check, group aircraft ownership, care of aircraft logbooks, declaring an emergency, what to do if ATC gives you a phone number and asks you to call, what to do after an incident or accident, landing on a taxiway and flying over gross.

This article isn't legal advice; all situations are different, for advice for a specific situation you face, please contact an attorney.

Ramp Checks

The idea of having an FAA inspector walk up and announce a ramp check generally gets a pilot's adrenalin level up to where it's spraying out of his ears. Naturally, it's the subject of a lot of conversations, Internet drama, false information and misleading advertising by companies trying to sell a gadget or an app.

To start with, the FAA has the authority to conduct ramp checks. The Federal Aviation Act of 1958, which created the FAA, requires it to scrutinize the aviation community for the purpose of safety. One way it does so is via ramp checks.

The purpose of a ramp check is limited: to see if the pilot's and aircraft's documents are in order. That's all. It is not an investigation into what the pilot has been doing.

The usual procedure is for the FAA inspector to approach a pilot who is near an airplane, introduce him or herself, show ID, announce that a ramp check is being conducted and ask to EAA Chapter 100 May 2014 Newsletter

see the aircraft's documents and pilot's certificates.

In my opinion, the best way to handle a ramp check is to simply provide the requested documents while behaving professionally. I suggest you write down the inspector's name. Inspectors are human, the vast majority that I know are good folks (most of whom hate doing ramp checks), but there are some who feel the need to hassle pilots.

Don't be chatty; pilots who run their mouths have a strange tendency to admit to doing something stupid with an airplane and thus turn a ramp check into an investigation.

Don't be a jerk; that sets off alarm bells for inspectors—you might as well as be announcing that you have something to hide. It's an effective way to turn a two-minute event into an unpleasant, long lasting episode with the FAA.

Don't worry about handing your certificate to the inspector—the Internet fables about the inspector keeping it and claiming you had surrendered it are indeed fables. The surrender of a pilot certificate is governed by FAR Part 61.27. It must be in writing and contain specific language or it is not effective. An FAA Regional Counsel once told me that if an inspector tried to hang onto a pilot's certificate during a ramp check the inspector would be lucky to keep his job and his next assignment would be in Nome.

You are required to provide: photo ID, pilot certificate and medical (driver's license if Light Sport), the aircraft's airworthiness certificate, registration, weight and

A photograph of a FAA Standard Airworthiness Certificate. The form is filled out with the following information: REGISTRATION NO. N231LA, AIRCRAFT MAKE/FEDERATION NUMBER/TYPE N/A, AIRCRAFT MODEL/TYPE N/A, SERIAL NUMBER 22-993, and NORMAL. The name of the holder is MARION M. MULLANE, and the certificate number is 09-10-95. The form also includes a section for 'REMARKS' and a signature line for the FAA representative.

balance/limitations documents (in the POH if the airplane has one, separate weight and balance paperwork if the airplane does not). You may be asked to show the aircraft logs. They should not be in the airplane (they're too valuable, more on that below). It's rare that an inspector makes such a request; if it is made, the appropriate response is to schedule a time and place where you can provide them for review.

You do not have to: let the inspector get into the airplane (Part 91), do a weight and balance calculation for a flight you've made or answer any question about what you've been doing.

You do not have to have current, or even any, charts in the airplane under Part 91.

The moment an inspector asks you about something that happened in the past, even one second ago, it's no longer just a ramp check, it's an investigation. The FAA is supposed to tell you when it's doing an investigation, but sometimes an

inspector slips up. You do not have to answer investigation questions. If you are asked about something in the past, my suggestion is that you politely say that it sounds like this is becoming an investigation and that you will speak to your attorney before you answer any further questions. That is your right and inspectors are used to such an answer.

Group Aircraft Ownership

Every once in a while you'll hear a pilot say that she's protected herself from liability in the event she crashes her airplane by having the airplane owned by a corporation or L.L.C. It won't work. If her sweaty hands were on the yoke when airplane crashed and she caused it, how the airplane is owned won't protect her in the event she is sued.

Nevertheless, when an airplane is owned jointly, the method of ownership can matter. If the owners have formed a partnership to own the airplane, the general rule is that each owner is personally responsible for the negligence of the other partners. When a corporation or L.L.C. owns the airplane, the shareholders of the corporation or members of the L.L.C. are not individually liable for the negligence of the other shareholders or members, particularly the one who was flying the airplane at the time of an accident.

Forming an L.L.C. or corporation for group ownership of an aircraft may have other benefits. That is especially true if one person wants to sell his share as it may simplify the process and may save on sales or use tax in some states. An airplane isn't cheap; in my opinion, it's worth consulting with an attorney in your state with regard to the best way to set up ownership.

Nevertheless, when it comes to liability risk, the best way to handle it is to insure the risk, not try to set up some dodge that your hangar neighbor's uncle came up with that's "utterly foolproof."

The same rule applies for buying a share of an airplane as it does to buying the entire thing: never do it without having a pre-purchase examination performed by a mechanic you chose who knows the type of airplane involved.

Aircraft Logbooks

The aircraft, engine and prop logbooks for your airplane are worth from 10 to 20 percent of the aircraft's value. Take a moment and think of that in cash. That's the general rule for how much will get knocked off the sale price of your airplane if you lose those logs. It's a fact of aeronautical life.

That means you should probably have a digital copy of the logbooks with the originals locked up someplace safe, not sitting on a shelf at your favorite maintenance shop. After all, would you leave a several thousand dollars in cash on that shelf?



When you have maintenance work done on your airplane, have the mechanic record the work done on a sticker that you put into the log. You then copy that page and add it to the digital record of your logs.

There is no requirement of any sort that a mechanic ever see the originals of your aircraft logbooks before doing maintenance or an inspection on your airplane. For your protection, and for the protection of your mechanic, provide either a digital copy or print out a hard copy. That way neither you nor your maintenance technician runs the risk of losing valuable documents.

I've also seen logbooks held hostage by a shop when there was poor communication between the shop and the aircraft owner over what maintenance was authorized and what the price was going to be. Owners have had to sue shops to get logbooks back—not a good thing for anyone involved.

Emergencies and Paperwork

For reasons that seem to relate to old John Wayne movies, some pilots think that if they declare an emergency they'll have to deal with endless paperwork afterwards. That simply is not true—that OWT may well be responsible for fatal accidents because pilots shut up when they might have gotten help.

FAR Part 91.3 says that a pilot may deviate from any regulation in an emergency. It goes on to say that if the pilot does violate a regulation he or she will have to provide a report to the FAA *if* the FAA requests one. Think about what it says—there is the potential for having to file a report, but only if you have to violate a regulation in the process of dealing with an emergency. From what I've seen, that's rare. The FAA figured out some years ago that pilots are overly hesitant to admit they have an emergency, so the fact that you declare does not trigger any reporting requirement.

If there's something wrong, it's the pilot's obligation to use all of the available resources to deal with the problem—and those may include getting ATC on your side. I read of one situation where a pilot had to shut down an engine on a twin and

couldn't hold altitude. He was talking to ATC but refused to declare an emergency so ATC had to route him around two restricted areas. He barely made the runway. That's foolish. Had he simply declared ATC could have cleared him straight to the airport.

Failing to declare an emergency when one exists may also increase the risk a pilot will be found negligent in a post-accident lawsuit. In most states, the law gives a person dealing with an emergency a lot of latitude; there's less second-guessing. However, if the pilot didn't declare, why is the jury going to believe there was an emergency? Also, if the pilot didn't declare, then she or he didn't use all available resources and could potentially be considered negligent.

Besides, if you've got a problem, it's better to have the Crash Fire Rescue (CFR) crews waiting for you and not need them than to have them cutting the grass when your airplane catches fire during rollout after the fuel odor that was puzzling you ignites.

Please Call ATC

You're flying along, minding your own business, when ATC calls you, gives you a phone number and asks that you call after you land.

You probably aren't about to be told that you've won the lottery.

Should you call?

Maybe. (How's that for a lawyer's answer?) If you do, only do so after you've taken the time, after landing, to consider the situation and talk with your attorney. You don't get any points for calling in quickly, so take time to maturely consider what triggered ATC's desire to speak with you further.



Most of the time the whole thing started because you erred, or at least ATC is convinced you did. If you call, remember that the call is recorded. Plus, you will identify yourself as the person flying the aircraft. On top of that, ATC keeps getting less and less discretion as to what it can do when there is a pilot deviation. The chances that you have a friendly conversation, admit you messed up, promise not to do again and the tower or Center says, "OK, don't do it again," and closes the file on the subject are low.

However, the FSDO that is going to be processing the
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deviation has the discretion to let you off with a warning or have you do remedial training rather than hitting you with a violation—therefore, the polite, "I messed up" phone call to ATC could swing matters over to the warning side of the scale downstream.

So—there is no hard and fast answer to the question of whether to make the call.

There are, however, three hard and fast rules to follow if ATC asks you to call:

1. Never argue with ATC on the frequency.
2. Think before do anything about the request that you call ATC.
3. File an ASRS (NASA) report immediately—if you do get a violation, you won't have your certificate suspended.

Accident Reporting

You're going into the short strip near the vacation lodge and forget the gear. Ouch. You're taxiing over to the pumps to fill up, misjudge, hit a post with the wing of your Piper Dakota, open up the tip tank, fuel gushes out, ignites and burns up your Dakota, a King Air and a Gulfstream. Wow.

To whom do you report the accident? NTSB? FAA?

You don't report it to either one; they are not reportable accidents under Part 830 of the NTSB regulations.

In the first example, a gear up landing almost never does enough damage to meet the reporting threshold of Part 830. In the second, the aircraft has to be moving for the purpose of flight. Taxiing to the fuel pump isn't moving for the purpose of flight.

An accident is reported to the NTSB. While the NTSB may tell the FAA, the regs call for the notification be made to the NTSB. The NTSB may delegate the investigation to the FAA; nevertheless, the notification is to the NTSB.

If you are involved with an incident that does not meet the definition of an accident, there is no reason to burden the NTSB or FAA with the time, effort, cost and paperwork involved with carrying out an investigation—they don't want to do it. However, if someone reports it, an investigation has to be conducted, and that may mean that the FAA looks at the pilot for a potential violation it might not otherwise have



even known about.

Again, before doing anything, stop and think. Remember, even if the event is a reportable accident, which requires immediate notification under Part 830.5, you have to determine if it is reportable, so don't just pull out your cell phone and call the NTSB.

Aviation insurance companies know about the NTSB threshold reporting requirements, so just because you damaged your airplane, you don't need to report it to the NTSB for your insurance to pay for the repairs.

If you bend an airplane, I suggest the following checklist:

- Care for anyone who is injured
- Call your attorney
- Determine whether the event is reportable under Part 830
- If it is a reportable accident, notify the NTSB immediately
- Contact your insurer

Landing on a Taxiway

A few years ago, I looked at a four-fatality accident where a pilot elected to land despite a crosswind that was near the demonstrated crosswind velocity for the airplane. He lost control on rollout. What struck me was that the airport had a long taxiway that was oriented into the wind. There is nothing in the FARs that prevents a Part 91 pilot from landing on a taxiway at a non-towered airport. I kept asking myself why the pilot didn't land into the wind. There were no buildings or obstructions near the taxiway and taxiways are often used as runways during runway construction.

A crosswind that is at the edge of the pilot or the airplane's ability to handle it can have ugly results—general aviation has an unpleasantly high rate of runway loss of control accidents. While it would be wise to divert to an airport that has a runway more into the wind, fuel onboard may preclude such a diversion. It's certainly not common, but landing on a taxiway isn't prohibited by the FARs and landing into a strong wind on an unobstructed taxiway well clear of people and buildings may be far, far safer than trying to tackle that same wind when it's blowing from the side.

You may never have good reason to land on a taxiway, but don't omit it from your bag of tricks because you think it's not legal when conditions make it sensible.

Flying Over Gross

As America gets fatter, it seems to me that there is an increasing willingness of pilots to fly their airplanes over gross. EAA Chapter 100 May 2014 Newsletter

One of the OWTs I hear is that while it may be foolish to fly over gross, it's not illegal. It's true that it's foolish, however, it's also illegal—Part 91.9 requires complying with the airplane's operating limitations.

Flying illegally, intentionally, is your call. However, if the fact the aircraft is over gross has some relation to the cause of an accident, say hitting an obstruction on takeoff or an inadvertent stall, you may find yourself short of defenses should you be sued. In some states you may be facing an automatic finding of negligence. Your insurance should still cover you—violation of a reg is generally not reason for an insurer to deny coverage—but you may have crippled your defense.

Conclusion

This article hasn't touched on all the legal issues a pilot may face, but I hope it's targeted some of the more common—even if space has precluded it from dealing with them in depth. In my opinion, the important thing for a pilot to remember when coming up against a legal issue is to take some time to think before acting. The AOPA legal services plan pays for consultation with an aviation attorney on most aviation legal issues—in my opinion that's worth the price of admission. You worked hard to acquire the expertise to fly; when you need expertise on legal issue in aviation, it makes sense to contact someone who worked hard to gain it rather than make a quick decision you may regret.

Rick Durden is an aviation attorney, holds an CFI-AI an ATP with type ratings in the Cessna Citation and Douglas DC-3 and is the author of [The Thinking Pilot's Flight Manual, or How to Survive Flying Little Airplanes and Have a Ball Doing it, Vol. I.](#)

Good Links

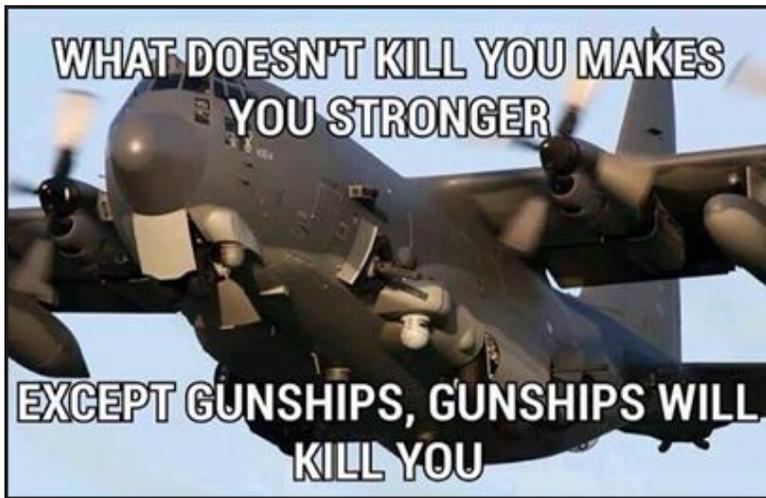
For all of you that have seen Matt Younkin's airshow demonstration in the Twin Beech, here is a great behind-the-scenes look into the performance. Always one of my favorites.

<http://www.youtube.com/watch?v=h1qSzCnzXvY>

Many of you are familiar with Sierra Sue, the late Roger Cristgua's P-51 Mustang. This aircraft, based at the Austin airport for many years, is currently in the final stages of a 100% ground up restoration at Aircorps Aviation in Bemidji. This video shows the recent mating of the wing to the fuselage.

<http://youtu.be/idFcsk00Xf8>

**If you have problems with the links, just copy/paste the address into your web browser.



Enough said...

You've never been lost until you've been lost at Mach 3.

-Paul F. Crickmore, Lockheed SR-71: The Secret Missions Exposed, 1993