

**OPINION
57-11**

June 19, 1957 (OPINION)

AIRCRAFT

RE: Spraying - Licensing

Have your letter before me in which you request an attorney general's opinion concerning House Bill 798 of the 1957 Legislature which because of its emergency clause became law as of March 12, 1957.

By using two hypothetical factual situations you ask two questions:

1. Does an aircraft that is licensed for commercial aerial spraying require an additional license when another person desires to use said aircraft for private aerial spraying?
2. Does an aircraft that is licensed for private aerial spraying require an additional license when the same person qualifies as a commercial aerial spray pilot and applies to the Aeronautics Commission for permission to do commercial aerial spraying?

The present law is an amendment of the original bill which did not include a provision for licensing aircraft engaged in private aerial spraying. The amendment provided that "persons engaged in private aerial spraying shall be required to pay same fee for use of aircraft for this purpose, * * *." The words "to pay same fee" give rise to the inference and opinion of this office that only one license is required for all types of aerial spraying. This answers your second question. You have indicated orally that the department set up two types of licenses (private and commercial) mainly for purpose of enforcement.

You specifically refer to the phrase "No person shall engage in aerial spraying without first obtaining a license for each aircraft used in such activities * * *." This phrase gives rise to the ambiguity as to whether the license is for the aircraft or for the pilot. In any interpretation of an act, the act must be taken in its entirety. A careful reading of the act indicates that the license is for "each aircraft" and that "the commission shall issue a license for such aircraft" Such language gives rise to the conclusion that the license is an aircraft license and not a pilot's license. This is corroborated by the fact that the pilots themselves have to supply aerial spraying experience requirements on suitable forms for the Aeronautics Commission and that they have to register their civil aeronautics pilots certificate with the commission.

Therefore, it is the opinion of this office that only one license is required in answer to your first question.

LESLIE R. BURGUM

Attorney General