

8800.4600 COMMERCIAL OPERATIONS.

If a person engages in any of the following activities, the person is deemed to be conducting a commercial operation as defined in Minnesota Statutes, section 360.013, subdivision 11, not a flying club as defined in part 8800.4100, and therefore a commercial operations license issued under parts 8800.3100 to 8800.3950 is required:

A. if any of the club's assets are used by members of the club who: do not have a bona fide and significant percentage of the property interest in the assets of the club or hold in the club's assets a property interest that is subject to an unreasonable forfeiture; however, a club may set forth in its operating rules and bylaws any reasonable penalties and any reasonable forfeitures so long as the purpose and the actual effect is to enforce valid club rules;

B. if the property interest of any member of the club in the club's assets is not transferable; however, the transfer of this type of property interest may be subject to reasonable conditions as the club deems reasonably necessary to ensure discipline and payment of dues among its members;

C. if any member of the club receives a pecuniary gain or receives any special benefits that are in excess of the reasonable value of the services rendered to the club by that member, or are in excess of the reasonable value of the goods sold to the club by that member; however, this item does not prohibit a flying club from paying one or more of its members a reasonable amount for services such as bookkeeping, secretarial, managerial, aircraft maintenance, and administrative duties of the flying club;

D. if the club charters, leases, or rents its aircraft or any interest in its aircraft to any persons or organizations other than fully qualified members of the club; provided, however, that this item does not prohibit flying clubs from leasing club aircraft to properly licensed commercial operators;

E. if the club provides for, or allows, memberships with a duration of less than 90 days;

F. if the club advertises, represents, or holds itself out as giving or offering to give, or does in fact provide or arrange for, "air instruction" as an "air school" (see Minnesota Statutes, section 360.13, subdivisions 16 and 17); provided, however, that this item does not prohibit a club from providing or arranging for "air instruction," so long as it is not for compensation or hire directly or indirectly;

G. if an individual who is a member of a flying club (lessor) leases an aircraft to that flying club (lessee); or

H. if a lessor, as described in item G, gives air instruction, whether free or for compensation, to members of that flying club.

Statutory Authority: *MS s 360.015; 360.018; 360.03; 360.90*

History: *30 SR 215*

Published Electronically: *October 2, 2007*