

1 ENGROSSED HOUSE AMENDMENT
TO
2 ENGROSSED SENATE BILL NO. 1960

By: Coates and Myers of the
Senate

3
4 and

5 Shannon of the House
6
7

8 (airports - Aircraft Pilot and Passenger Protection

9 Act - codification - noncodification -

10 emergency)
11
12

13 AUTHORS: Add the following House Coauthors: Morgan, Banz and
14 Wright (John)

15 AUTHORS: Add the following Senate Coauthors: Ivester and Corn
16

17 AMENDMENT NO. 1. Strike the stricken title, enacting clause and
18 entire bill and insert

19 "(creating the Aircraft Pilot and Passenger

20 Protection Act - declaring certain structures

21 incompatible with act - requiring permit for

22 certain construction - stating penalties for

23 violations - codification - noncodification -

24 emergency)

1 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

2 SECTION 1. NEW LAW A new section of law to be codified
3 in the Oklahoma Statutes as Section 120.1 of Title 3, unless there
4 is created a duplication in numbering, reads as follows:

5 A. This act shall be known and may be cited as the "Aircraft
6 Pilot and Passenger Protection Act".

7 B. It is the intent of this act to regulate the height of
8 structures near public-use airports, thereby protecting the safety
9 and welfare of the flying public; to restrict the use of land in the
10 immediate vicinity of the airport to activities compatible with
11 aircraft operations; to protect the public investment in airport
12 infrastructure; to provide specific powers and duties to the
13 Oklahoma Aeronautics Commission and to provide penalties for
14 violations of this act.

15 C. Nothing in this act shall prevent or preempt a municipality
16 from adopting ordinances or regulations governing land use that may
17 affect public-use airports.

18 SECTION 2. NEW LAW A new section of law to be codified
19 in the Oklahoma Statutes as Section 120.2 of Title 3, unless there
20 is created a duplication in numbering, reads as follows:

21 As used in this act:

22 1. "Airport reference point" is the geometrical center of all
23 usable runways;

24

1 2. "Airport elevation" is the highest point of an airport's
2 usable runways measured in feet from mean sea level;

3 3. "Commission" means the Oklahoma Aeronautics Commission or a
4 successor agency;

5 4. "FAA" means the Federal Aviation Administration or a
6 successor agency to the Federal Aviation Administration;

7 5. "Legal representative" means an official of the airport
8 sponsor who is authorized to legally bind the airport sponsor;

9 6. "Noise-sensitive area" means an area lying one thousand five
10 hundred (1,500) feet on either side of the centerline and the
11 extended centerline of a runway for a distance of one (1) statute
12 mile from the end of a runway at any public-use airport. Noise-
13 sensitive area shall not include federally owned property;

14 7. "Noise-sensitive purpose" means the use of a building or
15 structure as a residence, school, church, child-care facility,
16 medical facility, retirement home, nursing home or similar use;

17 8. "Permit" means a permit issued by the Commission under this
18 act;

19 9. "Person" means an individual, firm, partnership,
20 corporation, association, or body politic and includes a trustee,
21 receiver, assignee, or other similarly authorized representative of
22 any of them;

23 10. "Public-use airport" means a structure or an area of land
24 or water that is designed and set aside for the landing and taking

1 off of aircraft, is utilized or to be utilized by and in the
2 interest of the public for the landing and taking off of aircraft
3 and is identified by the FAA as a public-use airport. Public-use
4 airport shall include any military airport solely occupied by any
5 branch of the federal government for military air purposes. Public-
6 use airport shall not include any privately owned airport for
7 private use as identified by the FAA, or any airport owned by a
8 municipality with a population exceeding five hundred thousand
9 (500,000) according to the most recent Federal Decennial Census;

10 11. "Runway" means the portion of an airport designated as the
11 area used for the landing or takeoff of aircraft; and

12 12. "Structure" means any constructed or installed object,
13 including, but not limited to, cranes, buildings, towers, wind
14 turbines, smokestacks, electronic transmission or receiving towers,
15 and antennae and overhead transmission lines. Structure shall
16 include:

- 17 a. any aviation navigational aids that are fixed by
18 function, or
19 b. any construction or installed object on property owned
20 by the federal government.

21 SECTION 3. NEW LAW A new section of law to be codified
22 in the Oklahoma Statutes as Section 120.3 of Title 3, unless there
23 is created a duplication in numbering, reads as follows:

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1 The construction of a structure used for a noise-sensitive
2 purpose, as defined in Section 2 of this act, within a noise-
3 sensitive area, as defined in Section 2 of this act, constitutes an
4 incompatible use of land near a public-use airport and is regulated
5 by this act.

6 SECTION 4. NEW LAW A new section of law to be codified
7 in the Oklahoma Statutes as Section 120.4 of Title 3, unless there
8 is created a duplication in numbering, reads as follows:

9 A person shall obtain a permit from the Oklahoma Aeronautics
10 Commission prior to the construction or installation of any of the
11 following at a public-use airport:

12 1. Any structure to be constructed for a noise-sensitive
13 purpose in a noise-sensitive area;

14 2. Any structure, alteration or addition to a structure that
15 would result in a total structure height in excess of one hundred
16 fifty (150) feet above the established airport elevation and within
17 three (3) statute miles of a public-use airport measured from the
18 airport reference point; or

19 3. Any structure, alteration or addition to a structure that
20 would result in a greater height than a surface shaped like a
21 trapezoid:

22 a. longitudinally centered on the extended runway
23 centerline at a public-use airport,

24

- 1 b. beginning two hundred (200) feet beyond the end of
2 each runway pavement and at the runway end elevation,
3 c. having an inner edge width of one thousand (1,000)
4 feet expanding outward uniformly to a width of sixteen
5 thousand (16,000) feet at the outer edge, and
6 d. sloping upward for a distance of eleven thousand
7 (11,000) feet at a slope of fifty (50) to one (1),
8 with an additional forty thousand (40,000) feet at a
9 slope of forty (40) to one (1).

10 SECTION 5. NEW LAW A new section of law to be codified
11 in the Oklahoma Statutes as Section 120.5 of Title 3, unless there
12 is created a duplication in numbering, reads as follows:

13 Any structure or alteration to a structure, including a mobile
14 or temporary structure, is presumed to be a hazard to air navigation
15 if it is of greater height than any of the following heights or
16 surfaces at a public-use airport:

17 1. A horizontal plane one hundred fifty (150) feet above the
18 established airport elevation, the perimeter of which is constructed
19 by swinging arcs of ten thousand (10,000) feet radii from a point
20 located on the extended runway centerline two hundred (200) feet
21 beyond each end of runway pavement and connecting the adjacent arcs
22 by lines tangent to those arcs with a surface extending outward and
23 upward from the perimeter of this horizontal plane at a slope of
24

1 twenty (20) to one (1) for a horizontal distance of four thousand
2 (4,000) feet; and

3 2. A surface shaped like a trapezoid:

- 4 a. longitudinally centered on the extended runway
5 centerline,
- 6 b. beginning two hundred (200) feet beyond the end of
7 each runway pavement and at the runway end elevation,
- 8 c. having an inner edge width of one thousand (1,000)
9 feet expanding outward uniformly to a width of sixteen
10 thousand (16,000) feet at the outer edge, and
- 11 d. sloping upward for a distance of eleven thousand
12 (11,000) feet at a slope of fifty (50) to one (1),
13 with an additional forty thousand (40,000) feet at a
14 slope of forty (40) to one (1).

15 SECTION 6. NEW LAW A new section of law to be codified
16 in the Oklahoma Statutes as Section 120.6 of Title 3, unless there
17 is created a duplication in numbering, reads as follows:

18 Any person required to apply for a permit in accordance with the
19 provisions of this act shall provide written notice to the airport
20 owner of a public-use airport thirty (30) days prior to applying for
21 a permit from the Oklahoma Aeronautics Commission. The notice shall
22 be sent by certified or registered mail, with return receipt
23 requested, and must include the following:

24

- 1 1. Contact details of the applicant; i.e., name, telephone
2 number and mailing address;
- 3 2. Intended use of the structure;
- 4 3. Location of the structure, including the latitude and
5 longitude accurate to within the nearest one hundredth (1/100) of a
6 second based on the North American Datum of 1983 (NAD83);
- 7 4. Elevation of the ground above mean sea level (AMSL),
8 elevation of the structure AMSL and height of the structure above
9 ground level (AGL) in feet measured accurate to within twenty (20)
10 feet horizontally and three (3) feet vertically;
- 11 5. A copy of the seven-and-one-half-minute U.S. Geological
12 Survey Quadrangle Map with the precise site location marked, on
13 eight and one-half (8 1/2) inches by eleven (11) inches paper; and
- 14 6. A copy of the Form 7460-1 as defined in 14 CFR part 77,
15 subpart A, Section 17 that has been filed with the FAA, along with a
16 copy of the FAA determination, including comments by the FAA, if
17 any.

18 SECTION 7. NEW LAW A new section of law to be codified
19 in the Oklahoma Statutes as Section 120.7 of Title 3, unless there
20 is created a duplication in numbering, reads as follows:

21 Applications to the Oklahoma Aeronautics Commission for a permit
22 in accordance with the provisions of this act for construction near
23 a public-use airport shall include the following:

24

1 1. For construction in a noise-sensitive area, a person
2 applying for a permit in accordance with paragraph 1 of Section 4 of
3 this act must provide the following documents to the Commission:

4 a. a complete copy of the notice, including all
5 attachments mailed to the airport owner of a public-
6 use airport in accordance with Section 6 of this act
7 and the comments received from the airport owner,

8 b. the following statement on the applicant's letterhead,
9 signed by a legal representative:

10 "The applicant acknowledges for itself, its heirs, its
11 successors, and its assigns, that the real estate
12 described in this permit experiences or may experience
13 significant levels of aircraft noise, and that the
14 applicant is erecting a building designed for noise-
15 sensitive use upon the real estate, with the full
16 knowledge and acceptance of the aircraft noise as well
17 as any effects resulting from aircraft operations.",

18 c. a copy of the FAA determination on the proposed
19 construction based on the Form 7460-1 as defined in 14
20 CFR part 77, subpart A, Section 17, previously
21 submitted to the FAA and provided to the airport owner
22 pursuant to Section 6 of this act, and

23 d. a completed application in the form prescribed by the
24 Commission; and

1 2. For construction or alteration of a structure near a public-
2 use airport a person applying for a permit in accordance with
3 paragraph 2 or 3 of Section 4 of this act must provide the following
4 documents to the Commission:

5 a. a complete copy of the notice, including all
6 attachments submitted to the airport owner of a
7 public-use airport in accordance with Section 6 of
8 this act and the comments received from the airport
9 owner,

10 b. a copy of the FAA determination on the proposed
11 construction based on the Form 7460-1 as defined in 14
12 CFR part 77, subpart A, Section 17, submitted to the
13 FAA and provided to the airport owner pursuant to
14 Section 6 of this act, and

15 c. a completed application in the form prescribed by the
16 Commission.

17 SECTION 8. NEW LAW A new section of law to be codified
18 in the Oklahoma Statutes as Section 120.8 of Title 3, unless there
19 is created a duplication in numbering, reads as follows:

20 A. Upon receiving an application for a permit, the Oklahoma
21 Aeronautics Commission shall determine whether the proposed
22 structure erected in the proposed location is a structure for a
23 noise-sensitive purpose in a noise-sensitive area pursuant to
24 Section 3 of this act and/or whether a structure would be a hazard

1 to air navigation if constructed pursuant to Section 5 of this act.
2 The Commission may take into consideration findings and
3 recommendations of other governmental agencies or interested persons
4 concerning the proposed structure; however, such findings or
5 recommendations are not binding on the Commission.

6 B. The Commission may consider an application for a permit for
7 a period of sixty (60) days before making a final determination.

8 SECTION 9. NEW LAW A new section of law to be codified
9 in the Oklahoma Statutes as Section 120.9 of Title 3, unless there
10 is created a duplication in numbering, reads as follows:

11 Once a permit is issued by the Oklahoma Aeronautics Commission,
12 the applicant shall be required to complete the following steps to
13 complete the permit process:

14 1. The applicant or applicants for a permit under Section 4 of
15 this act shall record each permit issued by the Commission in the
16 office of the county clerk for the county where the structure is
17 located not later than thirty (30) business days after the
18 Commission issues the permit. If a structure is located in more
19 than one county, the county that contains the majority of the
20 structure is the county in which the permit must be filed. A permit
21 issued under paragraph 1 of Section 4 of this act shall contain the
22 following statement: "The permittee acknowledges for itself, its
23 heirs, its successors, and its assigns, that the real estate
24 described in this permit experiences or may experience significant

1 levels of aircraft noise, and that the permittee is erecting a
2 building designed for noise-sensitive purpose upon the real estate,
3 with the full knowledge and acceptance of the aircraft noise as well
4 as any effects resulting from the aircraft operations.";

5 2. A permit issued in accordance with the provisions of Section
6 4 of this act is valid only after the Commission receives a
7 certified copy of the recorded permit with the recording data from
8 the county clerk of the county in which the structure is located;
9 and

10 3. Every permit granted by the Commission shall specify
11 obstruction markers, markings, lighting, or other visual or aural
12 identification required to be installed on or in the vicinity of the
13 structure, if any. The identification characteristics required
14 shall conform to federal laws and regulations or as prescribed by
15 the Commission. Failure to maintain obstruction lights in an
16 operable condition is a violation of this act.

17 SECTION 10. NEW LAW A new section of law to be codified
18 in the Oklahoma Statutes as Section 120.10 of Title 3, unless there
19 is created a duplication in numbering, reads as follows:

20 A permit issued in accordance with the provisions of Section 4
21 of this act is valid only if the proposed structure has been
22 constructed within five (5) years of the issuance of a permit by the
23 Commission pursuant to Section 9 of this act.

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1 SECTION 11. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 120.11 of Title 3, unless there
3 is created a duplication in numbering, reads as follows:

4 A. If the Oklahoma Aeronautics Commission determines that a
5 permit should not be issued under the provisions of this act, the
6 Commission shall notify the applicant in writing of its
7 determination. The notification may be served by delivering it
8 personally to the applicant or by sending it by certified or
9 registered mail to the applicant at the address specified in the
10 application.

11 B. The determination is final thirty (30) days after
12 notification of the determination is served, unless the applicant,
13 within the thirty-day period, requests reconsideration in writing to
14 the Commission and provides written evidence that the structure does
15 not violate the provisions of this act. The Commission shall
16 consider the additional written evidence provided for an additional
17 period of thirty (30) days from the receipt of the request. The
18 Commission shall notify the applicant of its determination as
19 specified in subsection A of this section. In the event of a second
20 denial by the Commission of the permit request, the applicant can
21 request a hearing before the Commission with reference to the
22 application. A hearing under this section shall be open to the
23 public. Any person interested may appear and be heard either in
24 person or by counsel and may present pertinent evidence and

1 testimony. At the hearing, the applicant has the burden to show
2 cause why the Commission should have granted the permit to erect the
3 proposed structure.

4 SECTION 12. NEW LAW A new section of law to be codified
5 in the Oklahoma Statutes as Section 120.12 of Title 3, unless there
6 is created a duplication in numbering, reads as follows:

7 The provisions of this act shall not apply to structures that
8 existed prior to the effective date of this act. Any alterations to
9 existing structures shall be covered by the provisions of this act.

10 SECTION 13. NEW LAW A new section of law to be codified
11 in the Oklahoma Statutes as Section 120.13 of Title 3, unless there
12 is created a duplication in numbering, reads as follows:

13 Each violation of this act, or rulings promulgated by the
14 Oklahoma Aeronautics Commission pursuant to this act, shall
15 constitute a misdemeanor punishable by a fine of not more than Five
16 Hundred Dollars (\$500.00). Each day that such a violation or
17 failure continues constitutes a separate offense. In addition, the
18 Commission may institute in any court of general jurisdiction, an
19 action to prevent, restrain, correct, or abate any violation of this
20 act or of any rules or orders the Commission issued or ordered under
21 this act. The court may grant such relief, by way of injunction,
22 which may be mandatory, or otherwise, as may be necessary under this
23 act and the applicable rules or orders of the Commission issued
24 under this act.

1 SECTION 14. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 120.14 of Title 3, unless there
3 is created a duplication in numbering, reads as follows:

4 The Oklahoma Aeronautics Commission shall prepare and charge a
5 schedule of reasonable fees for services rendered, not to exceed Two
6 Hundred Dollars (\$200.00) per permit application.

7 SECTION 15. NEW LAW A new section of law not to be
8 codified in the Oklahoma Statutes reads as follows:

9 The Oklahoma Aeronautics Commission is authorized to promulgate
10 any rules necessary to implement the provisions of this act.

11 SECTION 16. It being immediately necessary for the preservation
12 of the public peace, health and safety, an emergency is hereby
13 declared to exist, by reason whereof this act shall take effect and
14 be in full force from and after its passage and approval."

15 Passed the House of Representatives the 21st day of April, 2010.

16
17
18 _____
19 Presiding Officer of the House of
Representatives

20 Passed the Senate the ____ day of _____, 2010.

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22
23 _____
24 Presiding Officer of the Senate