

COMMITTEE AMENDMENT
HOUSE OF REPRESENTATIVES
State of Oklahoma

SPEAKER:

CHAIR:

I move to amend HB2919 _____
Of the printed Bill
Page _____ Section _____ Lines _____
Of the Engrossed Bill

By striking the Title, the Enacting Clause, the entire bill, and by inserting in lieu thereof the following language:

AMEND TITLE TO CONFORM TO AMENDMENTS

Adopted: _____

Amendment submitted by: T.W. Shannon

Reading Clerk

1 STATE OF OKLAHOMA

2 2nd Session of the 52nd Legislature (2010)

3 PROPOSED COMMITTEE
4 SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 2919

By: Shannon

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8 PROPOSED COMMITTEE SUBSTITUTE

9 An Act relating to airports; creating the Aircraft
10 Pilot and Passenger Protection Act; stating intent;
11 defining terms; declaring certain structures
12 incompatible with act; requiring permit for certain
13 construction; stating requirements for permit
14 applications for certain purposes; authorizing the
15 Oklahoma Aeronautics Commission to investigate and
16 evaluate certain permit applications; providing for
17 validation of permits and requiring recording in
18 counties; providing for duration of permits;
19 providing for denial of permits by Commission;
20 stating application of act; stating penalties for
21 violations; providing for fees; authorizing
22 Commission to promulgate rules; providing for
23 codification; providing for noncodification; and
24 declaring an emergency.

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

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

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

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

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

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

17 As used in this act:

18 1. "Airport reference point" is the geometrical center of all
19 usable runways;

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

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

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1 4. "FAA" means the Federal Aviation Administration or a
2 successor agency to the Federal Aviation Administration;

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

5 6. "Noise-sensitive area" means an area lying one thousand five
6 hundred (1,500) feet on either side of the centerline and the
7 extended centerline of a runway for a distance of one (1) statute
8 mile from the end of a runway at any public-use airport;

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

12 8. "Permit" means a permit issued by the Commission under this
13 act;

14 9. "Person" means an individual, firm, partnership,
15 corporation, association, or body politic and includes a trustee,
16 receiver, assignee, or other similarly authorized representative of
17 any of them;

18 10. "Public-use airport" means a structure or an area of land
19 or water that is designed and set aside for the landing and taking
20 off of aircraft, is utilized or to be utilized by and in the
21 interest of the public for the landing and taking off of aircraft
22 and is identified by the FAA as a public-use airport. The term does
23 not include:

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- 1 a. any privately owned airport for private use as
2 identified by the FAA, or
3 b. any military airport solely occupied by any branch of
4 the federal government using that airport for military
5 air purposes;

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

8 12. "Structure" means any constructed or installed object,
9 including, but not limited to, cranes, buildings, towers, wind
10 turbines, smokestacks, electronic transmission or receiving towers,
11 and antennae and overhead transmission lines.

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

15 The construction of a structure used for a noise-sensitive
16 purpose, as defined in Section 2 of this act, within a noise-
17 sensitive area, as defined in Section 2 of this act, constitutes an
18 incompatible use of land near a public-use airport and is regulated
19 by this act.

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

1 A person shall obtain a permit from the Oklahoma Aeronautics
2 Commission prior to the construction, installation or alteration of
3 any of the following:

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

6 2. Any structure that would result in a total structure height
7 in excess of one hundred fifty (150) feet above the established
8 airport elevation and within three (3) statute miles of a public-use
9 airport measured from the airport reference point; or

10 3. Any structure that is of greater height than a surface
11 shaped like a trapezoid:

- 12 a. longitudinally centered on the extended runway
13 centerline,
- 14 b. beginning two hundred (200) feet beyond the end of
15 each runway pavement and at the runway end elevation,
- 16 c. having an inner edge width of one thousand (1,000)
17 feet expanding outward uniformly to a width of sixteen
18 thousand (16,000) feet at the outer edge, and
- 19 d. sloping upward for a distance of eleven thousand
20 (11,000) feet at a slope of fifty (50) to one (1),
21 with an additional forty thousand (40,000) feet at a
22 slope of forty (40) to one (1).
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1 SECTION 5. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 120.5 of Title 3, unless there
3 is created a duplication in numbering, reads as follows:

4 Any structure or alteration to a structure, including a mobile
5 structure is presumed to be a hazard to air navigation if it is of
6 greater height than any of the following heights or surfaces:

7 1. A horizontal plane one hundred fifty (150) feet above the
8 established airport elevation, the perimeter of which is constructed
9 by swinging arcs of ten thousand (10,000) feet radii from a point
10 located on the extended runway centerline two hundred (200) feet
11 beyond each end of runway pavement and connecting the adjacent arcs
12 by lines tangent to those arcs with a surface extending outward and
13 upward from the perimeter of this horizontal plane at a slope of
14 twenty (20) to one (1) for a horizontal distance of four thousand
15 (4,000) feet; and

16 2. A surface shaped like a trapezoid:
17 a. longitudinally centered on the extended runway
18 centerline,
19 b. beginning two hundred (200) feet beyond the end of
20 each runway pavement and at the runway end elevation,
21 c. having an inner edge width of one thousand (1,000)
22 feet expanding outward uniformly to a width of sixteen
23 thousand (16,000) feet at the outer edge, and
24

1 d. sloping upward for a distance of eleven thousand
2 (11,000) feet at a slope of fifty (50) to one (1),
3 with an additional forty thousand (40,000) feet at a
4 slope of forty (40) to one (1).

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

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

- 14 1. Contact details of the applicant; i.e., name, telephone
15 number and mailing address;
- 16 2. Intended use of the structure;
- 17 3. Location of the structure, including the latitude and
18 longitude accurate to within the nearest one-hundredth of a second
19 based on the North American Datum of 1983 (NAD83);
- 20 4. Elevation of the ground above mean sea level (AMSL),
21 elevation of the structure AMSL and height of the structure above
22 ground level (AGL) in feet measured accurate to within twenty (20)
23 feet horizontally and three (3) feet vertically;

1 5. A copy of the seven-and-one-half-minute U.S. Geological
2 Survey Quadrangle Map with the precise site location marked, on
3 eight and one-half by eleven paper; and

4 6. A copy of the Form 7460-1 as defined in 14 CFR part 77, sub-
5 part A, Section 17 that has been filed with the FAA, along with a
6 copy of the FAA determination, including comments by the FAA, if
7 any.

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

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

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

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

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

23 "The applicant acknowledges for itself, its heirs, its
24 successors, and its assigns, that the real estate

1 described in this permit experiences or may experience
2 significant levels of aircraft noise, and that the
3 applicant is erecting a building designed for noise-
4 sensitive use upon the real estate, with the full
5 knowledge and acceptance of the aircraft noise as well
6 as any effects resulting from aircraft operations.",

7 c. a copy of the FAA determination on the proposed
8 construction based on the form 7460-1 as defined in 14
9 CFR part 77, sub-part A, Section 17, previously
10 submitted to the FAA and provided to the airport owner
11 per Section 6 of this act, and

12 d. a completed application in the form prescribed by the
13 Commission; and

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

18 a. a complete copy of the notice, including all
19 attachments submitted to the airport owner of a
20 public-use airport in accordance with Section 6 of
21 this act and the comments received from the airport
22 owner,

23 b. a copy of the FAA determination on the proposed
24 construction based on the form 7460-1 as defined in 14

1 CFR part 77, sub-part A, Section 17, submitted to the
2 FAA and provided to the airport owner per Section 6 of
3 this act, and

4 c. a completed application in the form prescribed by the
5 Commission.

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

9 A. Upon receiving an application for a permit, the Oklahoma
10 Aeronautics Commission shall determine whether the proposed
11 structure erected in the proposed location is a structure for a
12 noise-sensitive purpose in a noise-sensitive area per Section 3 of
13 this act and/or whether a structure would be a hazard to air
14 navigation if constructed per Section 5 of this act. The Commission
15 may take into consideration findings and recommendations of other
16 governmental agencies or interested persons concerning the proposed
17 structure; however, such findings or recommendations are not binding
18 on the Commission.

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

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

1 Once a permit is issued by the Oklahoma Aeronautics Commission,
2 the applicant shall be required to complete the following steps to
3 complete the permit process:

4 1. The applicant or applicants for a permit under Section 4 of
5 this act shall record each permit issued by the Commission in the
6 office of the county clerk for the county where the structure is
7 located not later than thirty (30) business days after the
8 Commission issues the permit. If a structure is located in more
9 than one county, the county that contains the majority of the
10 structure is the county in which the permit must be filed. A permit
11 issued under paragraph 1 of Section 4 of this act shall contain the
12 following statement: "The permittee acknowledges for itself, its
13 heirs, its successors, and its assigns, that the real estate
14 described in this permit experiences or may experience significant
15 levels of aircraft noise, and that the permittee is erecting a
16 building designed for noise-sensitive purpose upon the real estate,
17 with the full knowledge and acceptance of the aircraft noise as well
18 as any effects resulting from the aircraft operations.";

19 2. A permit issued in accordance with the provisions of Section
20 4 of this act is valid only after the Commission receives a
21 certified copy of the recorded permit with the recording data from
22 the county clerk of the county in which the structure is located;
23 and
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1 3. Every permit granted by the Commission shall specify
2 obstruction markers, markings, lighting, or other visual or aural
3 identification required to be installed on or in the vicinity of the
4 structure, if any. The identification characteristics required
5 shall conform to federal laws and regulations or as prescribed by
6 the Commission. Failure to maintain obstruction lights in an
7 operable condition is a violation of this act.

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

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

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

18 A. If the Oklahoma Aeronautics Commission determines that a
19 permit should not be issued under the provisions of this act, the
20 Commission shall notify the applicant in writing of its
21 determination. The notification may be served by delivering it
22 personally to the applicant or by sending it by certified or
23 registered mail to the applicant at the address specified in the
24 application.

1 B. The determination is final thirty (30) days after
2 notification of the determination is served, unless the applicant,
3 within the thirty-day period, requests reconsideration in writing to
4 the Commission and provides written evidence that the structure does
5 not violate the provisions of this act. The Commission shall
6 consider the additional written evidence provided for an additional
7 period of thirty (30) days from the receipt of the request. The
8 Commission shall notify the applicant of its determination as
9 specified in subsection A of this section. In the event of a second
10 denial by the Commission of the permit request, the applicant can
11 request a hearing before the Commission with reference to the
12 application. A hearing under this section shall be open to the
13 public. Any person interested may appear and be heard either in
14 person or by counsel and may present pertinent evidence and
15 testimony. At the hearing, the applicant has the burden to show
16 cause why the Commission should have granted the permit to erect the
17 proposed structure.

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

21 The provisions of this act shall not apply to structures that
22 existed prior to the effective date of this act. Any alterations to
23 such existing structures would be covered by the provisions of this
24 act.

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

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

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

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

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

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

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

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8 52-2-10046 LRB 02/23/10

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