

1 STATE OF OKLAHOMA

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

3 COMMITTEE SUBSTITUTE  
4 FOR ENGROSSED  
5 SENATE BILL NO. 1960

By: Coates and Myers of the  
Senate

6 and

7 Shannon of the House

8  
9 COMMITTEE SUBSTITUTE

10 [ creating the Aircraft Pilot and Passenger  
11 Protection Act - declaring certain structures  
12 incompatible with act - requiring permit for  
13 certain construction - stating penalties for  
14 violations - codification - noncodification -  
15 emergency ]

16  
17  
18 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

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

22 A. This act shall be known and may be cited as the "Aircraft  
23 Pilot and Passenger Protection Act".  
24

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

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

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

15 As used in this act:

16 1. "Airport reference point" is the geometrical center of all  
17 usable runways;

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

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

22 4. "FAA" means the Federal Aviation Administration or a  
23 successor agency to the Federal Aviation Administration;

24

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

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

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

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

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

17       10. "Public-use airport" means a structure or an area of land  
18 or water that is designed and set aside for the landing and taking  
19 off of aircraft, is utilized or to be utilized by and in the  
20 interest of the public for the landing and taking off of aircraft  
21 and is identified by the FAA as a public-use airport. Public-use  
22 airport shall include any military airport solely occupied by any  
23 branch of the federal government for military air purposes. Public-  
24 use airport shall not include any privately owned airport for

1 private use as identified by the FAA, or any airport owned by a  
2 municipality with a population exceeding five hundred thousand  
3 (500,000) according to the most recent federal decennial census;

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

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

11 a. any aviation navigational aids that are fixed by  
12 function, or

13 b. any construction or installed object on property owned  
14 by the federal government.

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

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

23

24

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

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

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

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

14           3. Any structure, alteration or addition to a structure that  
15 would result in a greater height than a surface shaped like a  
16 trapezoid:

- 17           a. longitudinally centered on the extended runway  
18           centerline at a public-use airport,
- 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 5.       NEW LAW       A new section of law to be codified  
6 in the Oklahoma Statutes as Section 120.5 of Title 3, unless there  
7 is created a duplication in numbering, reads as follows:

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

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

21           2.   A surface shaped like a trapezoid:

22                   a.   longitudinally centered on the extended runway  
23                           centerline,

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

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

- 19       1.   Contact details of the applicant; i.e., name, telephone  
20       number and mailing address;  
21       2.   Intended use of the structure;  
22       3.   Location of the structure, including the latitude and  
23       longitude accurate to within the nearest one hundredth (1/100) of a  
24       second based on the North American Datum of 1983 (NAD83);

1 4. Elevation of the ground above mean sea level (AMSL),  
2 elevation of the structure AMSL and height of the structure above  
3 ground level (AGL) in feet measured accurate to within twenty (20)  
4 feet horizontally and three (3) feet vertically;

5 5. A copy of the seven-and-one-half-minute U.S. Geological  
6 Survey Quadrangle Map with the precise site location marked, on  
7 eight and one-half (8 1/2) inches by eleven (11) inches paper; and

8 6. A copy of the Form 7460-1 as defined in 14 CFR part 77,  
9 subpart A, Section 17 that has been filed with the FAA, along with a  
10 copy of the FAA determination, including comments by the FAA, if  
11 any.

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

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

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

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

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

3                   "The applicant acknowledges for itself, its heirs, its  
4                   successors, and its assigns, that the real estate  
5                   described in this permit experiences or may experience  
6                   significant levels of aircraft noise, and that the  
7                   applicant is erecting a building designed for noise-  
8                   sensitive use upon the real estate, with the full  
9                   knowledge and acceptance of the aircraft noise as well  
10                  as any effects resulting from aircraft operations.",

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

16           d.    a completed application in the form prescribed by the  
17                  Commission; and

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

22                  a.    a complete copy of the notice, including all  
23                          attachments submitted to the airport owner of a  
24                          public-use airport in accordance with Section 6 of

1 this act and the comments received from the airport  
2 owner,

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

8 c. a completed application in the form prescribed by the  
9 Commission.

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

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

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

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

4           Once a permit is issued by the Oklahoma Aeronautics Commission,  
5 the applicant shall be required to complete the following steps to  
6 complete the permit process:

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

22           2. A permit issued in accordance with the provisions of Section  
23 4 of this act is valid only after the Commission receives a  
24 certified copy of the recorded permit with the recording data from

1 the county clerk of the county in which the structure is located;  
2 and

3 3. Every permit granted by the Commission shall specify  
4 obstruction markers, markings, lighting, or other visual or aural  
5 identification required to be installed on or in the vicinity of the  
6 structure, if any. The identification characteristics required  
7 shall conform to federal laws and regulations or as prescribed by  
8 the Commission. Failure to maintain obstruction lights in an  
9 operable condition is a violation of this act.

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

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

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

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

1 registered mail to the applicant at the address specified in the  
2 application.

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

20 SECTION 12. NEW LAW A new section of law to be codified  
21 in the Oklahoma Statutes as Section 120.12 of Title 3, unless there  
22 is created a duplication in numbering, reads as follows:  
23  
24

1 The provisions of this act shall not apply to structures that  
2 existed prior to the effective date of this act. Any alterations to  
3 existing structures shall be covered by the provisions of this act.

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

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

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

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

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

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

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

9

10 52-2-10660 CJB 04/12/10

11

12

13

14

15

16

17

18

19

20

21

22

23

24