

1 STATE OF OKLAHOMA

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

3 CONFERENCE COMMITTEE SUBSTITUTE  
4 FOR ENGROSSED

5 SENATE BILL 1960

6 By: Coates, Myers, Ivester and  
7 Corn of the Senate

8 and

9 Shannon, Morgan, Banz and  
10 Wright (John) of the House

11 CONFERENCE COMMITTEE SUBSTITUTE

12 An Act relating to airports; creating the Aircraft  
13 Pilot and Passenger Protection Act; providing short  
14 title; stating intent; defining terms; requiring  
15 permit prior to construction or installation of  
16 certain structures near public-use airports;  
17 declaring certain structures incompatible with  
18 certain airport operations; declaring certain  
19 structures hazardous to air navigation; stating  
20 requirements for applications; stating procedures for  
21 permitting process; providing time period for certain  
22 construction; stating procedure for denial of permit  
23 and providing for reconsideration; stating  
24 application of act; stating violations and providing  
penalties; authorizing fees for services; stating  
limit of fees; authorizing the Oklahoma Aeronautics  
Commission to promulgate rules; providing for  
codification; providing for noncodification; and  
providing an effective date.

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

SECTION 1. NEW LAW A new section of law to be codified  
in the Oklahoma Statutes as Section 120.1 of Title 3, unless there  
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:

4       1. Regulate obstructions to air navigation that have the  
5 potential of endangering the lives and property of aircraft pilots  
6 and passengers and those that live or work in the vicinity of  
7 public-use airports; that may affect existing and future instrument  
8 approaches to a public-use airport; and that may reduce the size of  
9 areas available for the landing, takeoff and maneuvering of aircraft  
10 thus impairing the utility of a public-use airport and the public  
11 investment therein;

12       2. Regulate the use of land in close proximity to a public-use  
13 airport to ensure compatibility with aircraft operations; and

14       3. Provide specific powers and duties to the Oklahoma  
15 Aeronautics Commission in the interest of the health, safety and  
16 welfare of the public so that the state may properly fulfill its  
17 duty to ensure that land use around a public-use airport is  
18 compatible with normal airport operations including the landing and  
19 takeoff of aircraft.

20       C. All heights or surfaces set forth in this act are from the  
21 standards set forth in Subpart C of Federal Aviation Regulations  
22 (FAR) Part 77.

23

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1 D. Depending upon the type of survey used, an adjustment will be made  
2 to the horizontal and vertical measurements of the proposed structure as  
3 follows:

4 Survey	Horizontal	Survey	Vertical
5 Type	Adjustment	Type	Adjustment
6 1	±20 ft (6 m)	A	+3 ft (1 m)
7 2	±50 ft (15 m)	B	+10 ft (3 m)
8 3	±100 ft (30 m)	C	+20 ft (6 m)
9 4	±250 ft (75 m)	D	+50 ft (15 m)
10 5	±500 ft (150 m)	E	125 ft (38 m)

11 If the survey type (horizontal and vertical) is not certified by  
12 a licensed engineer or a licensed surveyor, a horizontal adjustment  
13 of ±250 ft and a vertical adjustment of +50 ft will be applied to  
14 the structure measurements.

15 E. This act shall neither prevent nor preempt a municipality  
16 from having 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 the Aircraft Pilot and Passenger Protection Act:

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

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

3        3. "Approach surface" is an imaginary surface shaped like a  
4 trapezoid:

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

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

18        5. "Conical surface" is an imaginary surface extending outward  
19 and upward from the periphery of the horizontal surface at a slope  
20 of twenty (20) to one (1) for a horizontal distance of four thousand  
21 (4,000) feet;

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

24

1       7. "Horizontal surface" is an imaginary horizontal plane one  
2 hundred fifty (150) feet above the established airport elevation,  
3 the perimeter of which is constructed by swinging arcs of ten  
4 thousand (10,000) feet radii from a point located on the extended  
5 runway centerline two hundred (200) feet beyond each end of runway  
6 pavement and connecting the adjacent arcs by lines tangent to those  
7 arcs;

8       8. "Incompatible purpose" means the use of a building or  
9 structure as a residence, educational center (including all types of  
10 primary and secondary schools, pre-schools, child-care facilities),  
11 places of worship, hospital, medical inpatient treatment facility,  
12 nursing/convalescent home, retirement home, or similar use;

13       9. "Legal representative" means a person who is authorized to  
14 legally bind an entity;

15       10. "Permit" means a permit issued by the Commission under this  
16 act;

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

21       12. "Primary surface" is a surface longitudinally centered on a  
22 runway. When the runway has a specially prepared hard surface, the  
23 primary surface extends two hundred (200) feet beyond each end of  
24 that runway; but when the runway has no specially prepared hard

1 surface, or planned hard surface, the primary surface ends at each  
2 end of that runway. The elevation of any point on the primary  
3 surface is the same as the elevation of the nearest point on the  
4 runway centerline. The width of the primary surface is one thousand  
5 (1,000) feet;

6 13. "Public-use airport" means a structure or an area of land  
7 or water that is designed and set aside for the landing and taking  
8 off of aircraft, is utilized or to be utilized by and in the  
9 interest of the public for the landing and taking off of aircraft  
10 and is identified by the FAA as a public-use airport. Public-use  
11 airport shall include any military airport operated by a branch of  
12 the armed services of the United States government. Public-use  
13 airport shall not include any privately owned airport for private  
14 use as identified by the FAA, or any airport owned by a municipality  
15 with a population exceeding five hundred thousand (500,000)  
16 according to the most recent federal decennial census;

17 14. "Runway" means the portion of an airport designated as the  
18 area used for the landing or takeoff of aircraft;

19 15. "Runway protection zone" is a trapezoidal zone centered  
20 along the extended runway centerline, beyond each end of the primary  
21 surface, two thousand five hundred (2,500) feet long, with an inner  
22 width of one thousand (1,000) feet and an outer width of one  
23 thousand seven hundred fifty (1,750) feet. The function of the  
24

1 runway protection zone is to enhance the protection of people and  
2 property on the ground;

3 16. "Structure" means any constructed or installed object,  
4 including, but not limited to, buildings, towers, wind turbines,  
5 smokestacks, electronic transmission or receiving towers, and  
6 antennae and overhead transmission lines. The term does not  
7 include:

8 a. any aviation navigational aids that are fixed by  
9 function, or

10 b. any construction or installed object on property owned  
11 by the federal government; and

12 17. "Total structure height" means the elevation of the ground  
13 above mean sea level at the structure's location, plus the height of  
14 the structure above ground level in feet, plus the applicable survey  
15 type adjustment.

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

19 A. A person shall obtain a permit from the Oklahoma Aeronautics  
20 Commission prior to the construction or installation of any of the  
21 following near a public-use airport:

22 1. Any proposed structure for an incompatible purpose in the  
23 primary surface or the runway protection zone;

24

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

6        3. Any structure, alteration or addition to a structure that  
7 would result in a total structure height greater than the  
8 horizontal, conical or approach surfaces, as defined in Section 2 of  
9 this act.

10        B. No permit shall be required:

11        1. For mobile or temporary equipment used to construct or  
12 install a new structure or to perform routine maintenance, repairs,  
13 or replace parts of an existing structure; or

14        2. To repair, replace, or alter an existing structure that  
15 would not result in a total structure height greater than the  
16 horizontal, conical or approach surfaces as defined in Section 2 of  
17 this act, or change the location of an existing structure.

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

21        The construction of a structure for an incompatible purpose  
22 within the primary surface or the runway protection zone is presumed  
23 to be incompatible with normal airport operations including the  
24 landing and takeoff of aircraft.

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 is presumed to be a  
5 hazard to air navigation if its total structure height is greater  
6 than the horizontal, conical or the approach surfaces, as defined in  
7 Section 2 of this act.

8 SECTION 6. NEW LAW A new section of law to be codified  
9 in the Oklahoma Statutes as Section 120.6 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 primary surface or runway protection  
15 zone, under paragraph 1 of subsection A of Section 3 of this act:

16 a. a completed application on a form prescribed by the  
17 Commission with the following statement on the  
18 application signed by a legal representative of the  
19 applicant: "The applicant acknowledges and accepts  
20 for itself, its heirs, its successors, and its  
21 assigns, that the real estate described in this  
22 application is located in the primary surface or the  
23 runway protection zone of a public-use airport, and  
24 that the applicant is building a structure upon this

1 real estate with the full knowledge and acceptance  
2 that it may be incompatible with normal airport  
3 operations including the landing and takeoff of  
4 aircraft.", and

- 5 b. if required, a copy of FAA Form 7460-1, "Notice of  
6 Proposed Construction or Alteration", as described in  
7 14 CFR part 77, subpart B, Section 17, to be submitted  
8 to the FAA; and

9 2. For construction or alteration of a structure in a  
10 horizontal, conical, or approach surface under paragraph 2 or 3 of  
11 subsection A of Section 3 of this act:

- 12 a. a completed application on a form prescribed by the  
13 Commission, and
- 14 b. a copy of FAA Form 7460-1, to be submitted to the FAA.

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

18 A. If FAA Form 7460-1 is required, then an application for a  
19 permit pursuant to Section 3 of this act shall be filed at the same  
20 time the FAA Form 7460-1 is sent to FAA, or at any time before that.  
21 If FAA form 7460-1 is not required, then the application shall be  
22 filed at least thirty (30) days before the earlier of the following:

- 23 1. The date the proposed construction or alteration is to  
24 begin; or

1        2. The date an application for a construction or building  
2 permit is to be filed with the municipality.

3        Upon receiving an application, the Oklahoma Aeronautics  
4 Commission shall notify a legal representative of the public-use  
5 airport owner affected by the application and solicit comments from  
6 the airport owner.

7        B. In determining whether to issue a permit, the Commission  
8 shall consider:

- 9        1. The nature of the terrain and height of existing structures;
- 10       2. Public and private interests and investments;
- 11       3. The character of flying operations and planned developments  
12 of an airport;
- 13       4. Whether the construction of the proposed structure would  
14 cause an increase in the minimum descent altitude or the decision  
15 height at the affected airport;
- 16       5. Technological advances;
- 17       6. The safety of persons on the ground and in the air;
- 18       7. Land use density;
- 19       8. Comments from all interested persons; and
- 20       9. Findings and determinations of other government agencies.

21       C. If FAA Form 7460-1 is required, then the Commission shall  
22 notify the applicant of its determination within thirty (30) days of  
23 the FAA completing its aeronautical study. If the applicant has not  
24 been notified by the Commission of its determination within thirty

1 (30) days of the FAA completing its aeronautical study, then the  
2 applicant shall notify the Commission that it has not received  
3 notice of the Commission's determination. The Commission shall then  
4 have seven (7) working days from the date of the applicant's notice  
5 to notify the applicant of its determination. Nothing herein  
6 precludes the Commission from making its determination before the  
7 FAA completes its aeronautical study.

8 D. If FAA Form 7460-1 is not required, then the Commission  
9 shall notify the applicant of its determination within sixty (60)  
10 days of filing the application. If the applicant has not been  
11 notified by the Commission of its determination within sixty (60)  
12 days of filing the application, then the applicant shall notify the  
13 Commission that it has not received notice of the Commission's  
14 determination. The Commission shall then have seven (7) working  
15 days from the date of the applicant's notice to notify the applicant  
16 of its determination.

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

23 1. The applicant for a permit under Section 3 of this act shall  
24 record each permit issued by the Commission in the office of the

1 county clerk for the county where the structure is located not later  
2 than thirty (30) business days after the Commission issues the  
3 permit. If a structure is located in more than one county, the  
4 county that contains the majority of the structure is the county in  
5 which the permit must be filed. A permit issued under paragraph 1  
6 of subsection A of Section 3 of this act, shall contain the  
7 following statement: "The permittee acknowledges for itself, its  
8 heirs, its successors, and its assigns, that the real estate  
9 described in this permit is located within the primary surface or  
10 the runway protection zone of a public-use airport, and that the  
11 permittee is building a structure upon this real estate with the  
12 full knowledge and acceptance that it may be incompatible with  
13 normal airport operations including the landing and takeoff of  
14 aircraft";

15 2. A permit issued in accordance with the provisions of Section  
16 3 of this act is valid only after the Commission receives a  
17 certified copy of the recorded permit with the recording data from  
18 the county clerk of the county in which the structure is located;  
19 and

20 3. Every permit granted by the Commission shall specify that  
21 the obstruction markers, markings, lighting, or other visual or  
22 aural identification required to be installed on or in the vicinity  
23 of the structure shall conform to federal laws and regulations  
24

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 A permit issued in accordance with the provisions of Section 3  
5 of this act is valid only if the proposed structure has been  
6 constructed within ten (10) years of the issuance of a permit by the  
7 Oklahoma Aeronautics Commission pursuant to Section 8 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. If the Oklahoma Aeronautics Commission determines that a  
12 permit should not be issued under the provisions of this act, the  
13 Commission shall notify the applicant in writing of its  
14 determination. The notification may be served by delivering it  
15 personally to the applicant or by sending it by certified or  
16 registered mail to the applicant at the address specified in the  
17 application.

18 B. The determination is final thirty (30) days after  
19 notification of the determination is served, unless the applicant,  
20 within the thirty-day period, requests reconsideration in writing to  
21 the Commission and provides written evidence showing why the  
22 application should have been granted. The Commission has up to a  
23 period of thirty (30) days from the receipt of the request. The  
24 Commission shall notify the applicant of its determination as

1 specified in subsection A of this section. In the event of a second  
2 denial by the Commission of the permit request, the applicant can  
3 request a hearing before the Commission with reference to the  
4 application. A hearing under this section shall be open to the  
5 public. The applicant may appear and be heard either in person or  
6 by counsel and may present pertinent evidence and testimony. At the  
7 hearing, the applicant has the burden to show cause why the  
8 Commission should have granted the permit to erect the proposed  
9 structure.

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

13 The provisions of this act shall not apply to structures that  
14 existed or have an approved building permit from the local authority  
15 with jurisdiction over the property that the structure is proposed  
16 to be constructed upon, prior to the effective date of this act.

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

20 Each violation of this act, or rules adopted by the Oklahoma  
21 Aeronautics Commission pursuant to this act, shall constitute a  
22 misdemeanor punishable by a fine of not more than Five Hundred  
23 Dollars (\$500.00). Each day that such a violation or failure  
24 continues constitutes a separate offense. In addition, the

1 Commission may institute in any court of general jurisdiction, an  
2 action to prevent, restrain, correct, or abate any violation of this  
3 act, or any rules adopted or orders issued by the Commission  
4 pursuant to this act. The court may grant such relief, by way of  
5 injunction, which may be mandatory, or otherwise, as may be  
6 necessary under this act and the applicable rules or orders of the  
7 Commission issued under this act.

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

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

14 SECTION 14. NEW LAW A new section of law not to be  
15 codified in the Oklahoma Statutes reads as follows:

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

18 SECTION 15. This act shall become effective on October 1, 2010.

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