

1 ENGROSSED SENATE  
2 BILL NO. 1960

By: Coates and Myers of the  
Senate

3 and

4 Shannon of the House

5  
6  
7 [ airports - Aircraft Pilot and Passenger Protection  
8 Act - codification - noncodification -  
9 emergency ]

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

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

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

18 2. It is the intent of this act to regulate the height of  
19 structures near public-use airports, thereby protecting the safety  
20 and welfare of the flying public; to restrict the use of land in the  
21 immediate vicinity of the airport to activities compatible with  
22 aircraft operations; to protect the public investment in airport  
23 infrastructure; to provide specific powers and duties to the

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1 Oklahoma Aeronautics Commission and to provide penalties for  
2 violations of this act.

3 3. Nothing in this act shall prevent or preempt a municipality  
4 from adopting ordinances or regulations governing land use that may  
5 affect public-use airports.

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

9 As used in this act:

10 1. "Airport reference point" is the geometrical center of all  
11 usable runways;

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

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

16 4. "FAA" means the Federal Aviation Administration or a  
17 successor agency to the Federal Aviation Administration;

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

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

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

4       8. "Permit" means a permit issued by the Commission under this  
5 act;

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

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

16           a. any privately owned airport for private use as  
17 identified by FAA, or

18           b. any military airport solely occupied by any branch of  
19 the federal government using that airport for military  
20 air purposes;

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

23       12. "Structure" means any constructed or installed object,  
24 including, but not limited to, cranes, buildings, towers, wind

1 turbines, smokestacks, electronic transmission or receiving towers,  
2 and antennae and overhead transmission lines;

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

6 The construction of a structure used for a noise-sensitive  
7 purpose, as defined in Section 2 of this act, within a noise-  
8 sensitive area, as defined in Section 2 of this act, constitutes an  
9 incompatible use of land near a public-use airport and is regulated  
10 by this act.

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

14 A person shall obtain a permit from the Oklahoma Aeronautics  
15 Commission prior to the construction or installation of any of the  
16 following:

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

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

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1 3. Any structure, alteration or addition to a structure that  
2 would result in a greater height than a surface shaped like a  
3 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 5. NEW LAW A new section of law to be codified  
16 in the Oklahoma Statutes as Section 120.5 of Title 3, unless there  
17 is created a duplication in numbering, reads as follows:

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

- 21 1. A horizontal plane one hundred fifty (150) feet above the  
22 established airport elevation, the perimeter of which is constructed  
23 by swinging arcs of ten thousand (10,000) feet radii from a point  
24 located on the extended runway centerline two hundred (200) feet

1 beyond each end of runway pavement and connecting the adjacent arcs  
2 by lines tangent to those arcs with a surface extending outward and  
3 upward from the perimeter of this horizontal plane at a slope of  
4 twenty (20) to one (1) for a horizontal distance of four thousand  
5 (4,000) feet.

6 2. A surface shaped like a trapezoid:

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

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

21 Any person required to apply for a permit in accordance with the  
22 provisions of this act shall provide written notice to the airport  
23 owner of a public-use airport thirty (30) days prior to applying for  
24 a permit from the Oklahoma Aeronautics Commission. The notice shall

1 be sent by certified or registered mail, with return receipt  
2 requested, and must include the following:

3 1. Contact details of the applicant; i.e., name, telephone  
4 number and mailing address;

5 2. Intended use of the structure;

6 3. Location of the structure, including the latitude and  
7 longitude accurate to within the nearest one hundredth of a second  
8 based on the North American Datum of 1983 (NAD83);

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

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

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

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

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

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

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

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

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

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

3 d. a completed application in the form prescribed by the  
4 Commission.

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

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

14 b. a copy of the FAA determination on the proposed  
15 construction based on the form 7460-1 as defined in 14  
16 CFR part 77, sub-part A, Section 17, submitted to FAA  
17 and provided to the airport owner per Section 6 of  
18 this act, and

19 c. a completed application in the form prescribed by the  
20 Commission.

21 SECTION 8. NEW LAW A new section of law to be codified  
22 in the Oklahoma Statutes as Section 120.8 of Title 3, unless there  
23 is created a duplication in numbering, reads as follows:  
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1           1. Upon receiving an application for a permit, the Oklahoma  
2 Aeronautics Commission shall determine whether the proposed  
3 structure erected in the proposed location is a structure for a  
4 noise-sensitive purpose in a noise-sensitive area per Section 3 of  
5 this act and/or whether a structure would be a hazard to air  
6 navigation if constructed per Section 5 of this act. The Commission  
7 may take into consideration findings and recommendations of other  
8 governmental agencies or interested persons concerning the proposed  
9 structure; however, such findings or recommendations are not binding  
10 on the Commission.

11           2. The Commission may consider an application for a permit for  
12 a period of sixty (60) days before making a final determination.

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

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

19           1. The applicant or applicants for a permit under Section 4 of  
20 this act shall record each permit issued by the Commission in the  
21 office of the county clerk for the county where the structure is  
22 located not later than thirty (30) business days after the  
23 Commission issues the permit. If a structure is located in more  
24 than one county, the county that contains the majority of the

1 structure is the county in which the permit must be filed. A permit  
2 issued under paragraph 1 of Section 4 of this act shall contain the  
3 following statement: "The permittee acknowledges for itself, its  
4 heirs, its successors, and its assigns, that the real estate  
5 described in this permit experiences or may experience significant  
6 levels of aircraft noise, and that the permittee is erecting a  
7 building designed for noise-sensitive purpose upon the real estate,  
8 with the full knowledge and acceptance of the aircraft noise as well  
9 as any effects resulting from the aircraft operations."

10 2. A permit issued in accordance with the provisions of Section  
11 4 of this act is valid only after the Commission receives a  
12 certified copy of the recorded permit with the recording data from  
13 the county clerk of the county in which the structure is located.

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

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

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

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

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

15 B. The determination is final thirty (30) days after  
16 notification of the determination is served, unless the applicant,  
17 within the thirty-day period, requests reconsideration in writing to  
18 the Commission and provides written evidence that the structure does  
19 not violate the provisions of this act. The Commission shall  
20 consider the additional written evidence provided for an additional  
21 period of thirty (30) days from the receipt of the request. The  
22 Commission shall notify the applicant of its determination as  
23 specified in subsection A of this section. In the event of a second  
24 denial by the Commission of the permit request, the applicant can

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

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

11 The provisions of this act shall not apply to structures that  
12 existed prior to the effective date of this act. Any alterations to  
13 such existing structures would be covered by the provisions of this  
14 act.

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

18 Each violation of this act, or rulings promulgated by the  
19 Oklahoma Aeronautics Commission pursuant to this act, shall  
20 constitute a misdemeanor punishable by a fine of not more than Five  
21 Hundred Dollars (\$500.00). Each day that such a violation or  
22 failure continues constitutes a separate offense. In addition, the  
23 Commission may institute in any court of general jurisdiction, an  
24 action to prevent, restrain, correct, or abate any violation of this

1 act or of any rules or orders the Commission issued or ordered under  
2 this act. The court may grant such relief, by way of injunction,  
3 which may be mandatory, or otherwise, as may be necessary under this  
4 act and the applicable rules or orders of the Commission issued  
5 under this act.

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

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

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

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

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

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