

THE HOUSE OF REPRESENTATIVES
Tuesday, April 13, 2010

Committee Substitute for
ENGROSSED
Senate Bill No. 1960

COMMITTEE SUBSTITUTE FOR ENGROSSED SENATE BILL NO. 1960 - By:
COATES, MYERS, IVESTER AND CORN of the Senate and SHANNON of the House.

[creating the Aircraft Pilot and Passenger Protection Act - declaring certain
structures incompatible with act - requiring permit for certain construction -
stating penalties for violations – codification – noncodification – emergency]

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

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

4 A. This act shall be known and may be cited as the “Aircraft Pilot and Passenger
5 Protection Act”.

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

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

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

6 As used in this act:

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

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

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

12 4. "FAA" means the Federal Aviation Administration or a successor agency to the
13 Federal Aviation Administration;

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

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

19 Noise-sensitive area shall not include federally owned property;

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

- 1 8. “Permit” means a permit issued by the Commission under this act;
- 2 9. “Person” means an individual, firm, partnership, corporation, association, or
3 body politic and includes a trustee, receiver, assignee, or other similarly authorized
4 representative of any of them;
- 5 10. “Public-use airport” means a structure or an area of land or water that is
6 designed and set aside for the landing and taking off of aircraft, is utilized or to be
7 utilized by and in the interest of the public for the landing and taking off of aircraft and
8 is identified by the FAA as a public-use airport. Public-use airport shall include any
9 military airport solely occupied by any branch of the federal government for military air
10 purposes. Public-use airport shall not include any privately owned airport for private
11 use as identified by the FAA, or any airport owned by a municipality with a population
12 exceeding five hundred thousand (500,000) according to the most recent federal decennial
13 census;
- 14 11. “Runway” means the portion of an airport designated as the area used for the
15 landing or takeoff of aircraft; and
- 16 12. “Structure” means any constructed or installed object, including, but not limited
17 to, cranes, buildings, towers, wind turbines, smokestacks, electronic transmission or
18 receiving towers, and antennae and overhead transmission lines. Structure shall
19 include:
- 20 a. any aviation navigational aids that are fixed by function, or
21 b. any construction or installed object on property owned by the federal
22 government.

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

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

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

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

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

15 2. Any structure, alteration or addition to a structure that would result in a total
16 structure height in excess of one hundred fifty (150) feet above the established airport
17 elevation and within 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 would result in a greater
20 height than a surface shaped like a trapezoid:

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

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~~Strike thru~~ language denotes deletion from present Statutes.

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

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

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

- 18 1. Contact details of the applicant; i.e., name, telephone number and mailing
- 19 address;
- 20 2. Intended use of the structure;

1 3. Location of the structure, including the latitude and longitude accurate to within
2 the nearest one hundredth (1/100) of a second based on the North American Datum of
3 1983 (NAD83);

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

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

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

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

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

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

- 1 a. a complete copy of the notice, including all attachments mailed to the
- 2 airport owner of a public-use airport in accordance with Section 6 of
- 3 this act and the comments received from the airport owner,
- 4 b. the following statement on the applicant's letterhead, signed by a legal
- 5 representative:
- 6 "The applicant acknowledges for itself, its heirs, its successors, and its
- 7 assigns, that the real estate described in this permit experiences or
- 8 may experience significant levels of aircraft noise, and that the
- 9 applicant is erecting a building designed for noise-sensitive use upon
- 10 the real estate, with the full knowledge and acceptance of the aircraft
- 11 noise as well as any effects resulting from aircraft operations.",
- 12 c. a copy of the FAA determination on the proposed construction based on
- 13 the Form 7460-1 as defined in 14 CFR part 77, subpart A, Section 17,
- 14 previously 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 Commission; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 otherwise, as may be necessary under this act and the applicable rules or orders of the
2 Commission issued under this act.

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

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

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

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

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

16 COMMITTEE REPORT BY: COMMITTEE ON TRANSPORTATION, dated 04-12-10 -
17 DO PASS, As Amended and Coauthored.