

1 STATE OF OKLAHOMA

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

3 SENATE BILL 1960

By: Coates

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5
6 AS INTRODUCED

7 An Act relating to airports; creating the Airport
8 Protection Act; providing short title; stating
9 intent; defining terms; establishing territory
10 subject to act; declaring certain structures
11 noncompatible with act; providing obstruction
12 standards; requiring permit for certain construction;
13 requiring notice to airport owners; stating
14 requirements for permit applications for certain
15 purposes; authorizing the Oklahoma Aeronautics
16 Commission to investigate and evaluate certain permit
17 applications; providing for validation of permits and
18 requiring recording in counties; providing for denial
19 of permits by Commission; stating application of act;
20 stating penalties for violations; authorizing
21 Commission to promulgate rules; providing for
22 codification; providing for noncodification; and
23 declaring an emergency.
24

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 "Airport
23 Protection Act".
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1 B. It is the intent of this act to regulate the height of
2 structures near public owned airports thereby protecting instrument
3 and visual operations to the airport and the safety and welfare of
4 the flying public; to restrict the use of land in the immediate
5 vicinity of the airport to activities compatible with normal airport
6 operations; to protect the public investment in airport
7 infrastructure; to provide powers and duties for regulating
8 authorities and to provide penalties for violations of this act.

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

12 As used in this act:

13 1. "Public owned airport" means any area, site, or location,
14 either on land, water, or upon any building, which is specifically
15 adapted and maintained for the landing and taking off of aircraft,
16 and utilized or to be utilized in the interest of the public for
17 such purposes. The term does not include:

- 18 a. any privately owned airport or landing field, or
- 19 b. any military airport solely occupied by any federal
20 branch of government using that airport for military
21 air purposes;

22 2. "Airport reference point" or "ARP" geographically locates
23 the airport at the geometrical center of all usable runways;

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1 3. "Commission" means the Oklahoma Aeronautics Commission or a
2 successor agency;

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

5 5. "Minimum obstruction clearance altitude" means the lowest
6 FAA-published altitude that assures acceptable navigational signal
7 coverage and that is in effect between radio fixes on a low altitude
8 airway, on an off-airway route, or, provided the altitude meets
9 obstacle clearance requirements for the entire route segment, on a
10 route segment;

11 6. "Noise-Sensitive area" means an area lying one thousand five
12 hundred (1,500) feet on either side of the centerline and the
13 extended centerline of a runway for a distance of one (1) statute
14 mile from the property boundaries of any public-use airport;

15 7. "Noise-Sensitive Purpose" means the use of a building or
16 structure as a residence, school, church, child-care facility,
17 medical facility, retirement home, or nursing home;

18 8. "Nonprecision approach procedure" means a standard
19 instrument approach procedure in which no electronic glide slope is
20 provided;

21 9. "Nonprecision instrument runway" means a runway having an
22 existing instrument approach procedure utilizing air navigation
23 facilities with only horizontal guidance, or area-type navigation
24 equipment, for which a straight-in nonprecision instrument approach

1 procedure has been approved, or planned, and for which no precision
2 approach facilities are planned, or indicated on an FAA planning
3 document;

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

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

10 12. "Precision approach procedure" means a standard instrument
11 approach in which an electronic glide slope is provided, such as an
12 instrument landing system (ILS), or precision approach radar (PAR);

13 13. "Precision instrument runway" means a runway having an
14 existing instrument approach procedure utilizing an instrument
15 landing system (ILS), microwave landing system (MLS), or a precision
16 approach radar (PAR). It also means a runway for which a precision
17 approach system is planned and is so indicated by a Federal Aviation
18 Administration-approved airport layout plan or other planning
19 document;

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

22 15. "Structure" means any object constructed or installed by
23 man, including, but not limited to, cranes, buildings, towers,
24 smokestacks, electronic transmission or receiving towers, buildings

1 used for a noise-sensitive purpose, and antennae and overhead
2 transmission lines;

3 16. "Utility runway" means a runway that is constructed for and
4 intended to be used by propeller-driven aircraft with a maximum
5 gross weight of 12,500 pounds or less;

6 17. "Visual approach procedure" means an approach in which an
7 aircraft on an instrument flight rules flight plan, operating in
8 visual flight rules conditions under the control of an air traffic
9 control authorization, may proceed to the airport of destination in
10 visual flight rules conditions; and

11 18. "Visual runway" means a runway intended solely for the
12 operation of aircraft using visual approach procedures, with no
13 straight-in instrument approach procedure and no instrument
14 designation indicated on an FAA-approved airport layout plan or any
15 other planning document submitted to the FAA by competent authority.

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. The following airport imaginary surfaces are established by
20 14 CFR part 77, subpart C, Sections 25 and 29 with relation to any
21 public owned airport and to each runway:

22 1. Horizontal surface: a horizontal plane one hundred fifty
23 (150) feet above the established airport elevation, the perimeter of
24 which is constructed by swinging arcs of specified radii from the

1 center of each end of the primary surface of each runway of each
2 airport and connecting the adjacent arcs by lines tangent to those
3 arcs. The radii of each arc is five thousand (5,000) feet for all
4 runways designated as utility or visual, and ten thousand (10,000)
5 feet for all other runways;

6 2. Conical surface: a surface extending outward and upward
7 from the periphery of the horizontal surface at a slope of twenty
8 (20) to one (1) for a horizontal distance of four thousand (4,000)
9 feet;

10 3. Primary surface: a surface longitudinally centered on a
11 runway. When the runway has a specially prepared hard surface, the
12 primary surface extends two hundred (200) feet beyond each end of
13 the runway, but when the runway has no specially prepared hard
14 surface, the primary surface ends at each end of that runway. The
15 width of a primary surface is the following:

16 a. two hundred fifty (250) feet for utility runways
17 having only visual approaches,

18 b. five hundred (500) feet for utility runways having
19 nonprecision instrument approaches, and

20 c. for other than utility runways, the width is the
21 following:

22 (1) five hundred (500) feet for visual runways having
23 only visual approaches,
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1 (2) five hundred (500) feet for nonprecision
2 instrument runways having visibility minimums
3 greater than three-fourths (3/4) of a statute
4 mile, and

5 (3) one thousand (1,000) feet for a nonprecision
6 instrument runway, having a nonprecision
7 instrument approach with visibility minimums as
8 low as three-fourths (3/4) of a statute mile, and
9 for precision instrument runways.

10 The width of the primary surface of a runway will be that width
11 prescribed in this section for the most precise approach existing or
12 planned for either end of that runway;

13 4. Approach surface: a surface longitudinally centered on the
14 extended runway centerline and extending outward and upward from
15 each end of the primary surface. An approach surface is applied to
16 each end of each runway based upon the type of approach available or
17 planned for that runway end. The following also applies to the
18 approach surface:

19 a. the inner edge of the approach surface is the same
20 width as the primary surface and it expands uniformly
21 to a width of the following:

22 (1) one thousand two hundred fifty (1,250) feet for
23 that end of a utility runway with only visual
24 approaches,

1 (2) one thousand five hundred (1,500) feet for that
2 end of a runway other than a utility runway with
3 only visual approaches,

4 (3) two thousand (2,000) feet for that end of a
5 utility runway with a nonprecision instrument
6 approach,

7 (4) three thousand five hundred (3,500) feet for that
8 end of a nonprecision instrument runway other
9 than utility, having visibility minimums greater
10 than three-fourths (3/4) of a statute mile,

11 (5) four thousand (4,000) feet for that end of a
12 nonprecision instrument runway, other than
13 utility, having a nonprecision instrument
14 approach with visibility minimums as low as
15 three-fourths (3/4) of a statute mile, and

16 (6) sixteen thousand (16,000) feet for precision
17 instrument runways,

18 b. the approach surface extends for a horizontal distance
19 of the following:

20 (1) five thousand (5,000) feet at a slope of twenty
21 (20) to one (1) for all utility and visual
22 runways,
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- 1 (2) ten thousand (10,000) feet at a slope of thirty-
2 four (34) to one (1) for all nonprecision
3 instrument runways other than utility, and
4 (3) ten thousand (10,000) feet at a slope of fifty
5 (50) to one (1) with an additional forty thousand
6 (40,000) feet at a slope of forty (40) to one (1)
7 for all precision instrument runways, and

8 c. the outer width of an approach surface to an end of a
9 runway will be that width prescribed in this
10 subsection for the most precise approach existing or
11 planned for that runway end; and

12 5. Transitional surfaces: these surfaces extend outward and
13 upward at right angles to the runway centerline and the runway
14 centerline extended at a slope of seven (7) to one (1) from the
15 sides of the primary surface and from the sides of the approach
16 surfaces. Transitional surfaces for those portions of the precision
17 approach surface which project through and beyond the limits of the
18 conical surface, extend a distance of five thousand (5,000) feet
19 measured horizontally from the edge of the approach surface and at
20 right angles to the runway centerline.

21 B. The following heliport imaginary surfaces are established
22 with relation to any public owned heliport:

23 1. Heliport primary surface: the area of the primary surface
24 coincides in size and shape with the designated takeoff and landing

1 area of a heliport. This surface is a horizontal plane at the
2 elevation of the established heliport elevation;

3 2. Heliport approach surface: the approach surface begins at
4 each end of the heliport primary surface with the same width as the
5 primary surface, and extends outward and upward for a horizontal
6 distance of four thousand (4,000) feet where its width is five
7 hundred (500) feet. The slope of the approach surface is eight (8)
8 to one (1) for civil heliports; and

9 3. Heliport transitional surfaces: these surfaces extend
10 outward and upward from the lateral boundaries of the heliport
11 primary surface and from the approach surfaces at a slope of two (2)
12 to one (1) for a distance of two hundred fifty (250) feet measured
13 horizontally from the centerline of the primary and approach
14 surfaces.

15 SECTION 4. NEW LAW A new section of law to be codified
16 in the Oklahoma Statutes as Section 120.4 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 owned airport and is
22 regulated by this act.

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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 If any of the obstruction standards as provided in this section
5 are exceeded, the proposed structure is presumed to have a
6 substantial adverse effect upon the safe and efficient use of the
7 navigable airspace and would be a hazard to air navigation if
8 constructed.

9 1. An existing object, including a mobile object, is, and a
10 future object would be, an obstruction to air navigation if it is of
11 greater height than any of the following heights or surfaces:

12 a. a height that is two hundred (200) feet above ground
13 level or above the established airport elevation,
14 whichever is higher, within three (3) statute miles of
15 the established reference point of an airport,
16 excluding heliports, with its longest runway more than
17 three thousand two hundred (3,200) feet in actual
18 length, and that height increases in the proportion of
19 one hundred (100) feet for each additional statute
20 mile of distance from the airport up to a maximum of
21 five hundred (500) feet,

22 b. a height within a terminal obstacle clearance area,
23 including an initial approach segment, a departure
24 area, and a circling approach area, as defined by

1 federal law and regulations, which would result in the
2 vertical distance between any point on the object and
3 an established minimum instrument flight altitude
4 within that area or segment to be less than the
5 required obstacle clearance,

6 c. the surface of a takeoff and landing area of a public
7 owned airport or heliport or any imaginary surface as
8 established under Section 3 of this act. However, no
9 part of the takeoff or landing area itself will be
10 considered to be an obstruction under this act, or

11 d. a height that will increase the minimum altitude
12 required for a safe instrument approach; and

13 2. Except for traverse ways on or near an airport with an
14 operative ground traffic control service, furnished by an air
15 traffic control tower or by the airport management and coordinated
16 with the air traffic control service, the standards of paragraph 1
17 of this section apply to traverse ways used or to be used for the
18 passage of mobile objects only after the heights of these traverse
19 ways are increased by:

20 a. seventeen (17) feet for an interstate highway where
21 overcrossings are designed for a minimum of seventeen
22 (17) feet vertical distance,

23 b. fifteen (15) feet for any other public roadway,
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- c. ten (10) feet or the height of the highest mobile object that would normally traverse the road, whichever is greater, for a private road,
- d. twenty-three (23) feet for a railroad, or
- e. for a waterway or any other traverse way not covered by subparagraphs a through d of this paragraph, an amount equal to the height of the highest mobile object that would normally traverse it.

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

Without a permit issued by the Oklahoma Aeronautics Commission, a person shall not construct any of the following:

- 1. Any structure proposed to be located in a noise-sensitive area;
- 2. Any new structure or alteration to an existing structure that would result in a total structure height in excess of two hundred (200) feet above the ground level at its location and within five (5) statute miles of a public owned airport measured from the airport reference point; or
- 3. Any new structure or alteration to an existing structure in an area beginning at the end of a runway pavement, lying one thousand five hundred (1,500) feet on either side of the extended runway centerline, for a distance of five (5) statute miles.

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

4 Any person required to apply for a permit in accordance with the
5 provisions of this act must provide written notice to the airport
6 owner of a public owned airport prior to the filing of the permit
7 application with the Oklahoma Aeronautics Commission. The notice
8 shall be sent by certified or registered mail, with return receipt
9 requested, and must include the following:

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

12 2. Location of the structure, including the latitude and
13 longitude accurate to within the nearest one hundredth of a second
14 based on NAD83 datum;

15 3. Elevation of the ground above mean sea level and height of
16 the structure in feet;

17 4. A copy of the seven and one-half (7.5) minute U.S.
18 Geological Survey Quadrangle Map with the precise site location
19 marked, on an eight and one-half by eleven (8 1/2 x 11) inches size
20 of paper; and

21 5. A copy of the Form 7460-1 as defined in 14 CFR part 77,
22 subpart A, Section 17 filed with the FAA, along with a copy of the
23 Federal Aviation Administration determination, including comments
24 by the FAA, if any.

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

4 Applications to the Oklahoma Aeronautics Commission for a permit
5 in accordance with the provisions of this act for construction near
6 a public owned airport must include the following:

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

10 a. a complete copy of the notice, including all
11 attachments submitted to the airport owner of a public
12 owned airport in accordance with Section 7 of this act
13 and the comments received from the airport owner,

14 b. the following statement on the applicant's letterhead,
15 signed by an authorized person:

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

- 1 c. a copy of the Federal Aviation Administration
2 determination on the proposed construction based on
3 the form 7460-1, as defined in 14 CFR part 77, subpart
4 A, Section 17 submitted to FAA and provided to the
5 airport owner in Section 7 of this act, and
6 d. a completed application in the form prescribed by the
7 Commission.

8 2. For Construction or alteration of a structure near a public
9 owned airport a person applying for a permit in accordance with
10 paragraph 1 or 2 of Section 6 of this act must provide the following
11 documents to the Commission:

- 12 a. a complete copy of the notice, including all
13 attachments submitted to the airport owner of a public
14 owned airport in accordance with Section 7 of this act
15 and the comments received from the airport owner,
16 b. a copy of the FAA determination on the proposed
17 construction based on the form 7460-1, as defined in
18 14 CFR part 77, subpart A, Section 17 submitted to FAA
19 and provided to the airport owner in Section 7 of this
20 act, and
21 c. a completed application in the form prescribed by the
22 Commission.

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. Upon receiving an application for a permit, the Oklahoma
5 Aeronautics Commission shall make such investigation as may be
6 necessary to properly process the application under this act. The
7 investigation shall be conducted so as to determine, in the opinion
8 of the Commission, if the proposed structure erected in the proposed
9 location represented compatible land use in close proximity to a
10 public owned airport and whether its construction would have a
11 substantial adverse effect upon the safe and efficient use of the
12 navigable airspace and would be a hazard to air navigation if
13 constructed. The Commission may take into consideration findings
14 and recommendations of other governmental agencies or interested
15 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
18 a period of sixty (60) days before making a final determination.

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

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

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

16 2. A permit issued in accordance with the provisions of Section
17 6 of this act is valid only after the Commission receives a
18 certified copy of the recorded permit with the recording data from
19 the county clerk of the county in which the structure is located.

20 Any permit issued by the Commission under this act is valid only
21 after the Commission receives a certified copy of the recorded
22 permit with the recording data from the county clerk of the county
23 in which the structure is located. Additionally, every permit
24 granted by the Commission shall specify obstruction markers,

1 markings, lighting, or other visual or aural identification required
2 to be installed on or in the vicinity of the structure, if any. The
3 identification characteristics required shall conform to federal
4 laws and regulations. Failure to maintain obstruction lights in an
5 operable condition is a violation of this act.

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

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

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

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

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

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

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

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

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

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

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