

STATE OF OKLAHOMA

1st Session of the 56th Legislature (2017)

SENATE BILL 477

By: Standridge

AS INTRODUCED

An Act relating to aircraft and airports; amending 3
O.S. 2011, Section 120.1, 120.2, 120.3, 120.7 and
120.8, which relate to the Aircraft Pilot and
Passenger Protection Act; adding certain standards
for certain survey; modifying certain structure
definition; modifying certain permit exemption;
modifying certain permit process period; providing
for certain permit amendment process; and providing
an effective date.

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

SECTION 1. AMENDATORY 3 O.S. 2011, Section 120.1, is
amended to read as follows:

Section 120.1. A. This act shall be known and may be cited as
the "Aircraft Pilot and Passenger Protection Act".

B. It is the intent of this act to:

1. Regulate obstructions to air navigation that have the
potential of endangering the lives and property of aircraft pilots
and passengers and those that live or work in the vicinity of
public-use airports; that may affect existing and future instrument
approaches to a public-use airport; and that may reduce the size of

areas available for the landing, takeoff and maneuvering of aircraft thus impairing the utility of a public-use airport and the public investment therein;

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

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

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

D. Depending upon the type of survey used, an adjustment will be made in accordance with Federal Aviation Administration standards to the horizontal and vertical measurements of the proposed structure as follows:

| Survey | Horizontal | Survey | Vertical |
|--------|----------------|--------|--------------|
| Type | Adjustment | Type | Adjustment |
| 1 | ±20 ft (6 m) | A | +3 ft (1 m) |
| 2 | ±50 ft (15 m) | B | +10 ft (3 m) |
| 3 | ±100 ft (30 m) | C | +20 ft (6 m) |

4 ±250 ft (75 m) D +50 ft (15 m)

5 ±500 ft (150 m) E +125 ft (38 m)

If the survey type (horizontal and vertical) is not certified by a licensed engineer or a licensed surveyor, a horizontal adjustment of plus or minus two hundred fifty (250) feet and a vertical adjustment of fifty (50) feet will be applied to the structure measurements.

E. This act shall neither prevent nor preempt a municipality from having ordinances or regulations governing land use that may affect public-use airports.

SECTION 2. AMENDATORY 3 O.S. 2011, Section 120.2, is amended to read as follows:

Section 120.2. As used in the Aircraft Pilot and Passenger Protection Act:

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

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

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

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

b. beginning two hundred (200) feet beyond the end of each runway pavement and at the runway end elevation,

- c. having an inner-edge width of one thousand (1,000) feet expanding outward uniformly to a width of sixteen thousand (16,000) feet at the outer edge, and
- d. sloping upward for a distance of ten thousand (10,000) feet at a slope of fifty (50) to one (1), with an additional forty thousand (40,000) feet at a slope of forty (40) to one (1);

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

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

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

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

8. "Incompatible purpose" means the use of a building ~~or~~, structure, or area as a residence, educational center (including all

1 types of primary and secondary schools, preschools, and child-care
2 facilities), ~~places~~ place of worship, place of public assembly,
3 hospital, medical inpatient treatment facility, nursing/convalescent
4 home, retirement home, transportation facility, storage facility,
5 above-ground utility facility, or similar use;

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

8 10. "Permit" means a permit issued by the Commission under this
9 act;

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

14 12. "Primary surface" is a surface longitudinally centered on a
15 runway. When the runway has a specially prepared hard surface, the
16 primary surface extends two hundred (200) feet beyond each end of
17 that runway; but when the runway has no specially prepared hard
18 surface, or planned hard surface, the primary surface ends at each
19 end of that runway. The elevation of any point on the primary
20 surface is the same as the elevation of the nearest point on the
21 runway centerline. The width of the primary surface is one thousand
22 (1,000) feet;

23 13. "Public-use airport" means a structure or an area of land
24 or water that is designed and set aside for the landing and taking

1 off of aircraft, is utilized or to be utilized by and in the
2 interest of the public for the landing and taking off of aircraft
3 and is identified by the FAA as a public-use airport. Public-use
4 airport shall include any military airport operated by a branch of
5 the armed services of the United States government. Public-use
6 airport shall not include any privately owned airport for private
7 use as identified by the FAA, or any airport owned by a municipality
8 with a population exceeding five hundred thousand (500,000)
9 according to the most recent Federal Decennial Census;

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

12 15. "Runway protection zone" is a trapezoidal zone centered
13 along the extended runway centerline, beyond each end of the primary
14 surface, two thousand five hundred (2,500) feet long, with an inner
15 width of one thousand (1,000) feet and an outer width of one
16 thousand seven hundred fifty (1,750) feet. The function of the
17 runway protection zone is to enhance the protection of people and
18 property on the ground;

19 16. "Structure" means any constructed or installed object or
20 area, including, but not limited to buildings, towers, wind
21 turbines, smokestacks, electronic transmission or receiving towers,
22 and antennae and overhead transmission lines. The term does not
23 include:
24

1 a. any aviation navigational aids that are fixed by
2 function, or

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

5 17. "Total structure height" means the elevation of the ground
6 above mean sea level at the structure's location, plus the height of
7 the structure above ground level in feet, plus the applicable survey
8 type adjustment provided the survey adjustment is in accordance with
9 Federal Aviation Administration standards.

10 SECTION 3. AMENDATORY 3 O.S. 2011, Section 120.3, is
11 amended to read as follows:

12 Section 120.3. A. A person shall obtain a permit from the
13 Commission prior to the construction or installation of any of the
14 following near a public-use airport:

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

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

22 3. Any structure, alteration or addition to a structure that
23 would result in a total structure height greater than the
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1 horizontal, conical or approach surfaces, as defined in Section 2 of
2 the Aircraft Pilot and Passenger Protection Act.

3 B. No permit shall be required:

4 1. For mobile or temporary equipment used to construct or
5 install a new structure or to perform routine maintenance, repairs,
6 or replace parts of an existing structure or for temporary
7 structures that will be in place for less than twenty-four (24)
8 months; or

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

13 C. Any person required to notify the FAA of any proposed
14 construction or alteration pursuant to Subpart B of Section 77.13 of
15 the Federal Aviation Regulations Part 77, that in response receives
16 an acknowledgement from the FAA that further aeronautical study is
17 required to determine whether the proposed construction or
18 alteration would be a hazard to air navigation, shall, upon
19 requesting further aeronautical study by the FAA, concurrently
20 notify the Commission of the request and shall provide the
21 Commission with true and correct copies of all relevant filings made
22 with the FAA.

23 Upon receipt of such notification of the filing of a request for
24 further aeronautical study, the Commission shall give timely notice

1 thereof to the Oklahoma Strategic Military Planning Commission, or
2 any successor agency, and to any military airport within Oklahoma
3 potentially affected by the proposed construction or alteration.

4 The Commission further shall use its best efforts to establish
5 regular and consistent communication with the FAA to encourage
6 sharing of information regarding construction or alteration in a
7 military training route or slow-speed low-altitude training route
8 within the State of Oklahoma with appropriate state agencies and
9 military installations.

10 SECTION 4. AMENDATORY 3 O.S. 2011, Section 120.7, is
11 amended to read as follows:

12 Section 120.7. A. If FAA Form 7460-1 is required, then an
13 application for a permit pursuant to Section 3 of the Aircraft Pilot
14 and Passenger Protection Act shall be filed at the same time the FAA
15 Form 7460-1 is sent to the FAA, or at any time before that. If FAA
16 Form 7460-1 is not required, then the application shall be filed at
17 least thirty (30) days before the earlier of the following:

18 1. The date the proposed construction or alteration is to
19 begin; or

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

22 Upon receiving an application, the Commission shall notify a
23 legal representative of the public-use airport owner affected by the
24 application and solicit comments from the airport owner.

1 B. In determining whether to issue a permit, the Commission
2 shall consider:

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

15 C. If FAA Form 7460-1 is required, then the Commission shall
16 notify the applicant of its determination within thirty (30) days of
17 the FAA completing its aeronautical study. If the applicant has not
18 been notified by the Commission of its determination within thirty
19 (30) days of the FAA completing its aeronautical study, then the
20 applicant shall notify the Commission that it has not received
21 notice of the Commission's determination. The Commission shall then
22 have seven (7) working days from the date of the applicant's notice
23 to notify the applicant of its determination. Nothing herein
24

1 precludes the Commission from making its determination before the
2 FAA completes its aeronautical study.

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

12 SECTION 5. AMENDATORY 3 O.S. 2011, Section 120.8, is
13 amended to read as follows:

14 Section 120.8. Once a permit is issued by the Commission, the
15 applicant shall be required to complete the following steps to
16 complete the permit process:

17 1. The applicant for a permit under Section 3 of the Aircraft
18 Pilot and Passenger Protection Act shall record each permit issued
19 by the Commission in the office of the county clerk for the county
20 where the structure is located not later than ~~thirty (30)~~ sixty (60)
21 business days after the Commission issues the permit. If a
22 structure is located in more than one county, the county that
23 contains the majority of the structure is the county in which the
24 permit must be filed. A permit issued under paragraph 1 of

1 subsection A of Section 3 of this act shall contain the following
2 statement:

3 "The permittee acknowledges for itself, its heirs, its
4 successors, and its assigns, that the real estate described in
5 this permit is located within the primary surface or the runway
6 protection zone of a public-use airport, and that the permittee
7 is building a structure upon this real estate with the full
8 knowledge and acceptance that it may be incompatible with normal
9 airport operations including the landing and takeoff of
10 aircraft.";

11 2. A permit issued in accordance with the provisions of Section
12 3 of this act is valid only after the Commission receives a
13 certified copy of the recorded permit with the recording data from
14 the county clerk of the county in which the structure is located;
15 ~~and~~

16 3. Every permit granted by the Commission shall specify that
17 obstruction markers, markings, lighting, or other visual or aural
18 identification required to be installed on or in the vicinity of the
19 structure shall conform to federal laws and regulations; and

20 4. Once a permit is valid the permittee may request to amend a
21 permit under these conditions:

22 a. the amendment is to change the administrative items of
23 the permit including the transfer of ownership rights.

24 There shall be no limit to the amount of times a

1 permittee can request an amendment that is
2 administrative in nature, and

3 b. the amendment is for the purposes of micro-siting a
4 structure that has been permitted, but not yet
5 constructed. Micro-siting shall allow for a structure
6 to be moved four hundred (400) feet or less in a
7 horizontal direction provided the new location will
8 not impact an airport's instrument or visual
9 approaches. A permittee can request to amend a permit
10 for micro-siting up to two (2) times. A third micro-
11 siting request on the structure will require the
12 permittee to file a new permit application.

13 SECTION 6. This act shall become effective November 1, 2017.

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