

STATE OF OKLAHOMA

2nd Session of the 56th Legislature (2018)

HOUSE BILL 3562

By: Ortega

AS INTRODUCED

An Act relating to aircraft and airports; amending 3 O.S. 2011, Sections 120.1, 120.2, 120.3, as amended by Sections 1, 2 and 3, Chapter 32, O.S.L. 2017, 120.5, 120.6, 120.7 and 120.8, as amended by Sections 4 and 5, Chapter 32, O.S.L. 2017 (3 O.S. Supp. 2017, Sections 120.1, 120.2, 120.3, 120.7 and 120.8), which relate to the Aircraft Pilot and Passenger Protection Act; expanding legislative intent; specifying standards; modifying definitions; defining terms; modifying permit requirement; modifying exemption to permit requirement; specifying hazardous conditions; expanding areas that require permit; modifying application requirements; requiring certain notifications; requiring certain considerations be made for application review; specifying conditions for micrositing; 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, as amended by Section 1, Chapter 32, O.S.L. 2017 (3 O.S. Supp. 2017, 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~~ the Aircraft Pilot and Passenger Protection Act to:

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

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

11        3. Regulate obstructions to air navigation that have the  
12 potential of endangering the lives and property of military aircraft  
13 pilots and passengers in military training routes, drop areas and  
14 traffic patterns; and that may reduce the size of areas available  
15 for the training of military pilots thus impairing the utility of  
16 Oklahoma's airspace for military aircraft operations; and

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

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

4 ~~D.~~ Depending upon the type of survey used, an adjustment will  
5 be made in accordance with Federal Aviation Administration standards  
6 to the horizontal and vertical measurements of the proposed  
7 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)

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

20 ~~E. This act~~ D. The Aircraft Pilot and Passenger Protection Act  
21 shall neither prevent nor preempt a municipality from having  
22 ordinances or regulations governing land use that may affect public-  
23 use airports.

SECTION 2. AMENDATORY 3 O.S. 2011, Section 120.2, as amended by Section 2, Chapter 32, O.S.L. 2017 (3 O.S. Supp. 2017, 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;

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

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

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

14       8. "Incompatible purpose" means the use of a building,  
15 structure or area as a residence, educational center (including all  
16 types of primary and secondary schools, preschools, and child-care  
17 facilities), place of worship, place of public assembly, hospital,  
18 medical inpatient treatment facility, nursing/convalescent home,  
19 retirement home, transportation facility, storage facility,  
20 aboveground utility facility or similar use;

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

23       10. "Military drop area" means a designated drop area  
24 identified by the military which takes the shape of a rectangle with

dimensions of thirty (30) nautical miles in the longitudinal direction and six (6) nautical miles wide. The rectangle shall be positioned in the drop area so that twenty (20) nautical miles is located prior to the center of the drop area and ten (10) nautical miles is located beyond the center of the drop area along the longitudinal axis of the flight path. The centers of the drop areas are identified by the following latitude and longitude coordinates: 34-34-07.8N, 99-41-34.2W and 34-38-47.9N, 98-17-42.8W;

11. "Military training route" means any training route designated by the military including visual routes (VR), instrument routes (IR), and slow-speed routes (SR). The width of the route will vary with the mission of the aircraft and shall include the approach and departure points of the route which are measured in a radius equal to one-half (1/2) the width of the route;

12. "Military traffic pattern" means a fifteen-nautical-mile radius around the airport reference point of a military airport;

13. "Permit" means a permit issued by the Commission under this act the Aircraft Pilot and Passenger Protection Act;

~~11.~~ 14. "Person" means an individual, firm, partnership, corporation, association, or body politic and includes a trustee, receiver, assignee, or other similarly authorized representative of any of them;

~~12.~~ 15. "Primary surface" is a surface longitudinally centered on a runway. When the runway has a specially prepared hard surface,

1 the primary surface extends two hundred (200) feet beyond each end  
2 of that runway; but when the runway has no specially prepared hard  
3 surface, or planned hard surface, the primary surface ends at each  
4 end of that runway. The elevation of any point on the primary  
5 surface is the same as the elevation of the nearest point on the  
6 runway centerline. The width of the primary surface is one thousand  
7 (1,000) feet;

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

19 ~~14.~~ 17. "Runway" means the portion of an airport designated as  
20 the area used for the landing or takeoff of aircraft;

21 ~~15.~~ 18. "Runway protection zone" is a trapezoidal zone centered  
22 along the extended runway centerline, beyond each end of the primary  
23 surface, two thousand five hundred (2,500) feet long, with an inner  
24 width of one thousand (1,000) feet and an outer width of one

1 thousand seven hundred fifty (1,750) feet. The function of the  
2 runway protection zone is to enhance the protection of people and  
3 property on the ground;

4 ~~16.~~ 19. "Structure" means any constructed or installed object  
5 including, but not limited to, buildings, towers, wind turbines,  
6 smokestacks, electronic transmission or receiving towers, and  
7 antennae and overhead transmission lines. The term does not  
8 include:

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

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

13 ~~17.~~ 20. "Total structure height" means the elevation of the  
14 ground above mean sea level at the structure's location, plus the  
15 height of the structure above ground level in feet, plus the  
16 applicable survey type adjustment provided the survey adjustment is  
17 in accordance with Federal Aviation Administration standards.

18 SECTION 3. AMENDATORY 3 O.S. 2011, Section 120.3, as  
19 amended by Section 3, Chapter 32, O.S.L. 2017 (3 O.S. Supp. 2017,  
20 Section 120.3), is amended to read as follows:

21 Section 120.3 A. A person shall obtain a permit from the  
22 Oklahoma Aeronautics Commission prior to the construction,  
23 installation, or use of any of the following near a public-use  
24 airport:



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

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

8        3. Any structure, alteration or addition to a structure that  
9 would result in a total structure height greater than the  
10 horizontal, conical or approach surfaces, as defined in Section  
11 120.2 of this title.

12        B. A person shall obtain a permit from the Commission prior to  
13 the construction or installation of any of the following near a  
14 military training route, drop area or traffic pattern:

15        1. Any structure, alteration or addition to a structure that  
16 would exceed two hundred (200) feet above ground level underneath a  
17 military training route;

18        2. Any structure, alteration or addition to a structure that  
19 would exceed fifty (50) feet above ground level within a military  
20 drop area; and

21        3. Any structure, alteration or addition to a structure that  
22 would exceed one hundred fifty (150) feet above the established  
23 airport elevation underneath a military traffic pattern.

24        C. No permit shall be required:

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

6        2. To repair, replace, or alter an existing structure that  
7 would not result in a total structure height greater than the  
8 horizontal, conical or approach surfaces as defined in Section 120.2  
9 of this title, ~~or change the location of an existing structure; or~~

10        3. To repair, replace or alter an existing structure that would  
11 not result in a total structure height greater than two hundred  
12 (200) feet above ground level underneath a military training route,  
13 fifty (50) feet above ground level within a military drop area, or  
14 one hundred fifty (150) feet above the established airport elevation  
15 within a military traffic pattern.

16        ~~C.~~ D. Any person required to notify the FAA of any proposed  
17 construction or alteration pursuant to Subpart B of Section 77.13 of  
18 the Federal Aviation Regulations Part 77, that in response receives  
19 an acknowledgement from the FAA that further aeronautical study is  
20 required to determine whether the proposed construction or  
21 alteration would be a hazard to air navigation, shall, upon  
22 requesting further aeronautical study by the FAA, concurrently  
23 notify the Commission of the request and shall provide the  
24

1 Commission with true and correct copies of all relevant filings made  
2 with the FAA.

3       Upon receipt of such notification of the filing of a request for  
4 further aeronautical study, the Commission shall give timely notice  
5 thereof to the Oklahoma Strategic Military Planning Commission, or  
6 any successor agency, and to any military airport within Oklahoma  
7 potentially affected by the proposed construction or alteration.

8       The Commission further shall use its best efforts to establish  
9 regular and consistent communication with ~~the FAA~~ Oklahoma military  
10 installations to encourage sharing of information regarding  
11 construction or alteration ~~in~~ of a structure underneath a military  
12 training route ~~or slow-speed low-altitude training route~~ within a  
13 military drop area or underneath a military traffic pattern in the  
14 State of Oklahoma ~~with appropriate state agencies and military~~  
15 ~~installations.~~

16       SECTION 4.       AMENDATORY       3 O.S. 2011, Section 120.5, is  
17 amended to read as follows:

18       Section 120.5 A. Any structure or alteration to a structure is  
19 presumed to be a hazard to air navigation if its total structure  
20 height is greater than the horizontal, conical or approach surfaces,  
21 as defined in Section 2 120.2 of ~~the Aircraft Pilot and Passenger~~  
22 ~~Protection Act~~ this title.

23       B. Any structure or alteration to a structure is presumed to be  
24 a hazard to air navigation if its total structure height is greater

1 than two hundred (200) feet above ground level underneath a military  
2 training route, fifty (50) feet above ground level within a military  
3 drop area or one hundred fifty (150) feet above the established  
4 airport elevation underneath a military traffic pattern.

5 SECTION 5. AMENDATORY 3 O.S. 2011, Section 120.6, is  
6 amended to read as follows:

7 Section 120.6 Applications to the Oklahoma Aeronautics  
8 Commission for a permit in accordance with the provisions of the  
9 Aircraft Pilot and Passenger Protection Act for construction near a  
10 public-use airport, or military training route, drop area or traffic  
11 pattern shall include the following:

12 1. For construction in a primary surface or runway protection  
13 zone, under paragraph 1 of subsection A of Section ~~3~~ 120.3 of this  
14 ~~act~~ title:

15 a. a completed application on a form prescribed by the  
16 Commission with the following statement on the  
17 application, signed by a legal representative of the  
18 applicant:

19 "The applicant acknowledges for itself, its heirs, its  
20 successors, and its assigns, that the real estate  
21 described in this application is located in the  
22 primary surface or the runway protection zone of a  
23 public-use airport, and that the applicant is building  
24 a structure upon this real estate, with the full

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

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

8 2. For construction or alteration of a structure in a  
9 horizontal, conical, or approach surface under paragraph 2 or 3 of  
10 subsection A of Section ~~3~~ 120.3 of this ~~act~~ title:

- 11 a. a completed application on a form prescribed by the  
12 Commission, and

- 13 b. a copy of FAA Form 7460-1, to be submitted to the FAA;  
14 and

15 3. For construction or alteration of a structure underneath a  
16 military training route, within a military drop area or underneath a  
17 military traffic pattern as defined in Section 120.3 of this title:

- 18 a. a completed application on a form prescribed by the  
19 Commission, and

- 20 b. a copy of FAA Form 7460-1, to be submitted to the FAA.

21 SECTION 6. AMENDATORY 3 O.S. 2011, Section 120.7, as  
22 amended by Section 4, Chapter 32, O.S.L. 2017 (3 O.S. Supp. 2017,  
23 Section 120.7), is amended to read as follows:  
24

1       Section 120.7   A.   If FAA Form 7460-1 is required, then an  
2 application for a permit pursuant to Section 120.3 of this title  
3 shall be filed at the same time the FAA Form 7460-1 is sent to the  
4 FAA, or at any time before that.   If FAA Form 7460-1 is not  
5 required, then the application shall be filed at least thirty (30)  
6 days before the earlier of the following:

7       1.   The date the proposed construction or alteration is to  
8 begin; or

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

11 Upon receiving an application filed pursuant to paragraphs 1 and 2  
12 of Section 120.6 of this title, the Oklahoma Aeronautics Commission  
13 shall notify a legal representative of the public-use airport owner  
14 affected by the application and solicit comments from the airport  
15 owner; and upon receiving an application filed pursuant to paragraph  
16 3 of Section 120.6 of this title, the Commission shall notify a  
17 legal representative of the military installation affected by the  
18 application and the chairman of the Oklahoma Strategic Military  
19 Planning Commission or successor agency and solicit their comments.

20       B.   In determining whether to issue a permit for an application  
21 pursuant to paragraphs 1 and 2 of Section 120.6 of this title, the  
22 Commission shall consider:

23       1.   The nature of the terrain and height of existing structures;

24       2.   Public and private interests and investments of an airport;

1        3. The character of flying operations and planned developments  
2 of an airport;

3        4. Whether the construction of the proposed structure would  
4 cause an increase in the minimum descent altitude or the decision  
5 height at the affected airport;

6        5. Technological advances;

7        6. The safety of persons on the ground and in the air;

8        7. Land use density;

9        8. Comments from all interested persons; and

10       9. Findings and determinations of other government agencies.

11       C. In determining whether to issue a permit for an application  
12 pursuant to paragraph 3 of Section 120.6 of this title, the  
13 Commission shall consider:

14       1. Comments from the chairman of the Oklahoma Strategic  
15 Military Planning Commission or successor agency;

16       2. Comments from a legal representative of the military  
17 installation affected by the proposed structure;

18       3. Whether the proposed structure would encroach upon or  
19 otherwise have an adverse impact on the mission, training or  
20 operations of any military installation;

21       4. The safety of military aircraft, pilots and passengers; and

22       5. Whether the proposed structure would allow for a clear  
23 corridor within a military training route that preserves the  
24

1 capability for a military installation to conduct low-level  
2 operations.

3 D. If FAA Form 7460-1 is required, then the Commission shall  
4 notify the applicant of its determination within thirty (30) days of  
5 the FAA completing its aeronautical study. If the applicant has not  
6 been notified by the Commission of its determination within thirty  
7 (30) days of the FAA completing its aeronautical study, then the  
8 applicant shall notify the Commission that it has not received  
9 notice of the Commission's determination. The Commission shall then  
10 have seven (7) working days from the date of the applicant's notice  
11 to notify the applicant of its determination. Nothing herein  
12 precludes the Commission from making its determination before the  
13 FAA completes its aeronautical study.

14 ~~D.~~ E. If FAA Form 7460-1 is not required, then the Commission  
15 shall notify the applicant of its determination within sixty (60)  
16 days of filing the application. If the applicant has not been  
17 notified by the Commission of its determination within sixty (60)  
18 days of filing the application, then the applicant shall notify the  
19 Commission that it has not received notice of the Commission's  
20 determination. The Commission shall then have seven (7) working  
21 days from the date of the applicant's notice to notify the applicant  
22 of its determination.



1       SECTION 7.       AMENDATORY       3 O.S. 2011, Section 120.8, as  
2 amended by Section 5, Chapter 32, O.S.L. 2017 (3 O.S. Supp. 2017,  
3 Section 120.8), is amended to read as follows:

4       Section 120.8 A. Once a permit is issued by the Oklahoma  
5 Aeronautics Commission, the applicant shall be required to complete  
6 the following steps to complete the permit process:

7       1. The applicant for a permit under Section 120.3 of this title  
8 shall record each permit issued by the Commission in the office of  
9 the county clerk for the county where the structure is located not  
10 later than sixty (60) business days after the Commission issues the  
11 permit. If a structure is located in more than one county, the  
12 county that contains the majority of the structure is the county in  
13 which the permit must be filed. A permit issued under paragraph 1  
14 of subsection A of Section 120.3 of this title shall contain the  
15 following statement:

16       "The permittee acknowledges for itself, its heirs, its  
17 successors, and its assigns, that the real estate  
18 described in this permit is located within the primary  
19 surface or the runway protection zone of a public-use  
20 airport, and that the permittee is building a structure  
21 upon this real estate with the full knowledge and  
22 acceptance that it may be incompatible with normal  
23 airport operations including the landing and takeoff of  
24 aircraft.";

1        2. A permit issued in accordance with the provisions of Section  
2 120.3 of this title is valid only after the Commission receives a  
3 certified copy of the recorded permit with the recording data from  
4 the county clerk of the county in which the structure is located;  
5 and

6        3. Every permit granted by the Commission shall specify that  
7 obstruction markers, markings, lighting, or other visual or aural  
8 identification required to be installed on or in the vicinity of the  
9 structure shall conform to federal laws and regulations.

10       B. Once a permit is valid the permittee may request to amend a  
11 permit under these conditions:

12       1. The amendment is to change the administrative items of the  
13 permit including the transfer of ownership rights. There shall be  
14 no limit to the number of times a permittee can request an amendment  
15 that is administrative in nature; or

16       2. The amendment is for the purpose of micrositing a structure  
17 that has been permitted, but not yet constructed. Micrositing shall  
18 allow for a structure to be moved four hundred (400) feet or less in  
19 a horizontal direction provided the new location will not impact an  
20 airport's instrument or visual approaches or a military training  
21 route, drop area or traffic pattern. A permittee can request to  
22 amend a permit for micrositing up to two times. A third micrositing  
23 request on the structure will require the permittee to file a new  
24 permit application.

SECTION 8. This act shall become effective November 1, 2018.

56-2-8548 JBH 01/16/18