

States Rev Up Drone Oversight

This edition of the Cozen O'Connor Drone Report surveys proposed drone legislation in Florida, Illinois, Indiana, New Hampshire, New Jersey, New Mexico, Oklahoma, Vermont, and West Virginia and discusses recent drone regulatory developments at the federal level.

Notable Proposed State Legislation

Florida

The Florida Legislature is considering H.B. 471, which would prohibit drones from being operated near critical infrastructure facilities. It also would authorize the use of drones by local and state agencies for certain purposes, such as to facilitate the search for a missing person or to aid in the collection of evidence at the scene of a crime or traffic accident.

Illinois

The Illinois General Assembly is considering H.B. 4405, which would amend the Freedom from Drone Surveillance Act to add an exemption allowing law enforcement agencies to use drones to prepare for or monitor safety at a large-scale event.

Indiana

S.B. 334 is before the Indiana General Assembly. If enacted, it would prohibit the operation of a drone while intoxicated as a class B misdemeanor offense.

New Hampshire

On January 3, 2018, H.B. 1759 was introduced in the New Hampshire House of Representatives. The bill limits the government's use of drones. For example, the government would be prohibited from using drones to conduct surveillance or collect evidence, with certain exceptions. The bill would also limit the public's use of drones, including prohibiting the operation of a drone that is equipped with any type of weapon.

New Jersey

The New Jersey Legislature is reviewing S.B. 797, which makes it a crime to sell or operate a drone within the state that does not contain the proper geo-fencing technology. Each drone sold or operated in New Jersey would be required to contain geo-fencing technology that prevents it from operating over 500 feet above ground level and within two miles of an airport or protected airspace. A violation of this crime would be punishable by up to 18-months imprisonment and/or a maximum fine of \$10,000.

New Mexico and Vermont

Both the New Mexico Legislature and the Vermont Legislature are reviewing bills (NM S.B. 166 and VT H.B. 615) that would prohibit drone operations near correctional facilities.

Oklahoma

On January 18, 2018, H.B. 3132 was introduced in the Oklahoma State Legislature. The bill includes provisions that would prohibit the operation of a drone over the private agricultural property of another, with limited exceptions.



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Related Practice Areas

- Aviation Litigation
- Transportation & Trade
- Unmanned Aircraft Systems (UAS) / Drones

Industry Sectors

- Aviation

West Virginia

The West Virginia Legislature is considering H.B. 2627, which would prohibit the use of a drone to hunt, take, or kill a wild animal or bird.

Regulatory

Federal Aviation Administration

FAA Drone Registry Exceeds One Million Registrations

On January 10, 2018, U.S. Department of Transportation Secretary Elaine Chao announced that more than a million drones have been registered with the FAA. Out of the million registrations, approximately 122,000 are drones operated for commercial or government purposes. Drones that weigh more than 0.55 pounds and less than 55 pounds must be registered with the FAA. Registration is effective for three years and costs five dollars. Secretary Chao stated, “[t]he tremendous growth in drone registration reflects the fact that they are more than tools for commerce and trade, but can save lives, detect hazardous situations and assist with disaster recovery.”

FAA and AUVSI Co-Host UAS Symposium

The FAA and the Association for Unmanned Vehicle Systems International (AUVSI) are co-hosting the third annual UAS Symposium on March 6-8, 2018 in Baltimore, Maryland. Government officials and private stakeholders will discuss new developments, regulations, and initiatives to integrate UAS into the National Airspace System.

Judicial

New Class Action Lawsuit Filed Regarding the Drone Registration Requirement

On January 5, 2018, plaintiff Robert C. Taylor filed a class action lawsuit against the FAA, on behalf of persons who registered drones on the FAA registry. The plaintiffs claim that the FAA violated the Privacy Act of 1974 and the class’s privacy rights by retaining personal information and money collected through drone registrations prior to the May 2017 decision in *Taylor v. Huerta*, in which the D.C. Circuit ruled that the FAA lacked the statutory authority to impose the Registration and Marking Requirements for Small Unmanned Aircraft. On December 12, 2017, President Trump signed the National Defense Authorization Act, which restored the requirement for drones to be registered with the FAA. The class also claims that the FAA waived its sovereign immunity when it collected the \$5.00 fee in violation of a statute and that the FAA was unjustly enriched through the collection of more than \$4 million in drone registration fees that it did not have the statutory authority to collect. The defendants’ answer must be submitted to the U.S. District Court for the District of Columbia by March 13, 2018.

Please contact David Heffernan, of the Cozen O’Connor Unmanned Aircraft Systems (UAS)/Drones Practice Group, for more information regarding drone issues.