
**Technology & Economic Development
Committee**

HB 2178

Brief Description: Concerning unmanned aircraft.

Sponsors: Representatives Morris and Morrell.

Brief Summary of Bill

- Prohibits operation of unmanned aircraft equipped with a sensing device in the Washington state airspace above private property, without consent of the landowner and tenants.
- Requires unmanned aircraft equipped with a sensing device to be clearly and conspicuously labeled with contact information for the owner and operator
- Establishes a criminal penalty.
- Establishes liability for damage to government property, including incident response and traffic control costs.

Hearing Date: 1/16/14

Staff: Jasmine Vasavada (786-7301).

Background:

FAA Authority.

The Federal Aviation Administration (FAA) regulates the use of unmanned aircraft (UA), commonly referred to as drones, and Unmanned Aerial Systems (UAS) in the national airspace. An Unmanned Aerial System is the UA together with all of the associated support equipment, control station, data links, telemetry, communications, and navigation equipment necessary to operate the unmanned aircraft. According to the Government Accountability Office, current domestic use of UAS includes law enforcement, forest fire monitoring and control, border security, weather research, and scientific data collection by the federal government. The FAA

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projects that by 2020, U.S. airspace will be home to 30,000 UAS in active use at any given moment.

In 2012, Congress enacted the FAA Modernization and Reform Act (the reauthorization act), directing the FAA to establish a comprehensive plan for fully integrating UAS into the U.S. airspace by September 30, 2105. The reauthorization act ordered FAA to develop an improved and expedited process for approving applications from federal, state, and local agencies to operate UAS. Commercial operators currently cannot obtain FAA authorization, unless a public organizational sponsor accepts complete responsibility, or the operator has obtained an experimental certificate for purposes of research and development, market survey, or crew training. However, these restrictions on private commercial operation of UAS is scheduled to end when the FAA implements the comprehensive plan for full integration of UAS mandated by the reauthorization act.

The FAA authority generally preempts any state or local government from enacting a statute or regulation concerning the operation of aircraft in the national airspace. However, state and local government generally retain authority to limit the aeronautical activities of their own departments and institutions. In addition, under the reauthorization act, Congress provided that certain small UAS operated away from airports and air traffic and near the ground level are exempt from federal regulation, if they are flown for exclusively recreational, non-commercial purposes. Specifically, Section 336 of the reauthorization act prohibits the FAA from issuing rules limiting or prohibiting model, hobby or recreational use aircraft so long as: (a) the aircraft is less than 55 pounds; (b) the aircraft does not interfere with and gives way to any manned aircraft; (c) the aircraft is operated in accordance with a community-based set of safety guidelines and within the programming of a nationwide community-based organization; (d) the aircraft is flown within the line of sight of the operator and used solely for hobby or recreational purposes; and (e) the operator of the model aircraft notifies both the airport operator and air traffic control tower is flown in an area within five miles of an airport. Section 336(b) also provides that the FAA maintains its authority to take enforcement action against operators who "endanger the safety of the national airspace system."

Class G airspace is a civil airspace designation by the FAA, defined as airspace that is not designated as Class A, B, C, D, or E, and is considered uncontrolled. Class G airspace generally lies between the surface and the base of the overlying Class E airspace. Air traffic control does not control air traffic in Class G airspace.

Six Test Sites.

In December 2013, the FAA announced the selection of six public entities that will develop unmanned aircraft systems research and test sites around the country, focused on researching certification and operational requirements necessary to safely integrate UAS into the national airspace over the next several years. The FAA has established certain requirements for test site operators to help protect privacy. Operators must have publicly available privacy policies and a written plan for data use and retention. In addition, test site operators will be required to comply with federal and state privacy laws. Thus, state privacy regulation of UAS has not been preempted by Congress at this point in time.

Summary of Bill:

Requirements for Operation of an Unmanned Aircraft.

Operation of an unmanned aircraft equipped with a sensing device in Washington air space is prohibited, except under certain conditions.

- "Unmanned aircraft" means an aircraft operated without a physical human presence onboard and whose operation is either: (a) not authorized by the federal aviation administration (FAA); or (b) is pursuant to the federal exemption for recreation use of model aircraft under Section 336 of the Federal Aviation Administration Modernization and Reform Act of 2012.
- "Sensing device" is a device capable of acquiring personal information from its surroundings, but does not include equipment whose sole function is to provide information directly necessary for safe air navigation or piloting of the unmanned aircraft.
- "Washington state airspace" means all airspace within the territorial limits of the state that is within class G airspace, outside of five statute miles from any airport, and not otherwise classified as controlled by the FAA.

An unmanned aircraft equipped with a sensing device may be flown in the airspace about public lands if it is clearly and conspicuously labeled with the name and contact information of the aircraft's owner and operator, and it is flown in a manner that does not unreasonably interfere with the rights of others and is not otherwise prohibited by law. In Washington state airspace above private property, the unmanned aircraft equipped with a sensing device may only be flown if it is clearly and conspicuously labeled with the name and contact information for the owner and operator, and the landowner and tenants with a right to occupy the property have consented to such operation. Violation of these requirements is a gross misdemeanor.

Liability for Damages.

The operator of an unmanned aircraft is liable for all damages that state or local government property may sustain as a result of illegal or negligent operation of the unmanned aircraft. Damages that may be recovered in a civil action instituted in the name of the state of Washington include the incident response costs and traffic control expenses incurred.

Appropriation: None.

Fiscal Note: Requested January 10, 2014

Effective Date: The bill has an emergency clause and takes effect immediately.