
**Technology & Economic Development
Committee**

HB 1049

Brief Description: Concerning unmanned aircraft.

Sponsors: Representative Morris.

Brief Summary of Bill

- Establishes a class 2 civil infraction for launching an unmanned aircraft without federal authorization, unless the aircraft is labeled with contact information.
- Establishes a class 2 civil infraction for operating an unmanned aircraft over real property without consent, unless federally authorized.
- Creates a cause of action for trespass against an unmanned aircraft operator who operates over the real property without consent, and potential remedies.

Hearing Date: 1/10/17

Staff: Lily Smith (786-7175).

Background:

Unmanned aircraft (UA), often referred to as drones, are aircraft without a human pilot on board. The flight is controlled either autonomously by computers, or under remote control by a pilot. Unmanned aircraft are used for recreational, commercial, and government purposes. Potential uses include rescue operations, forest fire monitoring and control, crop and infrastructure inspections, and scientific data collection, among many others. There are no Washington State laws that specifically regulate UA.

Regulation by the Federal Aviation Administration (FAA)

The federal government has broad authority to regulate the use of airspace.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

The 2012 Federal Aviation Administration Modernization and Reform Act (FMRA) directed the FAA to begin integrating UA into the national airspace. FMRA prohibited the FAA from issuing rules regarding "model" aircraft flown for hobbyist or recreational purposes if the model aircraft met certain conditions ("Special Rule for Model Aircraft").

In 2015 the FAA issued registration requirements for all UA between 0.55 and 55 pounds. The unique registration identification (ID) of a UA must be readily accessible and visible upon inspection. It may be enclosed in a compartment if it can be accessed without the use of a tool.

Based on the authority provided by FMRA, the FAA issued the 2016 Small Unmanned Aircraft System Rule (Small UAS Rule) for nonrecreational UA under 55 pounds. This rule created operation and certification requirements, such as where, when, how fast, and by whom a UA may be flown.

State Trespass Law

Criminal

A person who knowingly enters or remains unlawfully in or upon the premises of another is guilty of criminal trespass. The unlawful entry into a building is a gross misdemeanor, while all other trespasses are misdemeanors. Entering or remaining on property is not unlawful if the person is licensed, invited, or otherwise privileged to enter or remain. A person has a license and privilege to enter or remain on any unimproved and apparently unused land if the land is not fenced, and notice is not posted or communicated to the person.

Civil

A person may be liable for trespass in a private action under statute or under the common law.

Under RCW 4.24.630, an individual who goes onto the land of another and wrongfully injures the land or property on the land may be liable for damages to the injured party.

Under the common law, trespass is an intrusion onto the property of another that interferes with the other person's right to exclusive possession of the property. A person is liable for trespass, even if no damage is caused, if the person, without a privilege to do so, intentionally: (a) enters land in the possession of another, or causes a thing or a third person to do so; (b) remains on the land; or (c) fails to remove from the land a thing which he is under a duty to remove.

Civil Infractions

Civil infractions subject some minor offenses to civil fines without characterizing the behavior as criminal.

Summary of Bill:

Prohibition on Launching Without a Label

No person may launch an unmanned aircraft in Washington, unless the federal government has provided specific authorization, if the unmanned aircraft is not clearly and prominently labeled with the name and phone number of the aircraft's owner and operator.

Prohibition on Operating Over Property Without Consent

No operator may, without specific federal authorization, operate an unmanned aircraft over real property without the consent of the property owner or occupant. This does not apply to property owned or occupied by a public agency.

Enforcement and Criminal Penalties

Any law enforcement officer may enforce the labeling and consent requirements. A violation of these requirements is a class 2 civil infraction.

Private Right of Action

An individual who lawfully owns or occupies real property may bring an action for trespass against any person who operates a UA over real property if:

- the operator has previously flown over the property; and
- the property owner or occupant has notified the UA owner or operator of non-consent.

An action may not be brought against a public agency.

Private Remedies

A successful private action may recover actual or liquidated damages of \$5,000 and attorneys' fees and costs. Injunctive relief may be awarded.

Definitions

"Unmanned aircraft" ("UA") means an aircraft, other than a radio-controlled aircraft, with no human pilot on board.

"Radio-controlled aircraft" means an aircraft with no human pilot on board that is entirely manually controlled using a handheld radio transmitter and that is not capable of autonomous flight.

"Specific federal authorization" means lawfully permitted under the 2012 Federal Aviation Administration Modernization and Reform Act, except it does not include operation of recreational unmanned aircraft covered by the Special Rule for Model Aircraft within that Act.

Appropriation: None.

Fiscal Note: Preliminary fiscal note available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.