

State Drone Law

State Laws and Regulations on Unmanned Aircraft Systems

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AUSLEY | McMULLEN

www.Ausley.com

Second Edition, 2017

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ISBN-13: 978-1977659965

ISBN-10: 1977659969

DEDICATION

This book is dedicated to everyone helping
the drone industry take flight.

Let's go make the future happen.

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ACKNOWLEDGMENTS

This book would not be possible without the research support and assistance of our dedicated Ausley McMullen law clerks. We owe this Second Edition of *State Drone Law* to the tireless work of Clayton Culler, Jarrett B. Davis, Rachel Lopez, Logan M. Manderscheid, Shannon Morris, Victoria Pearce, Kadmiel Perez, Nicholas Rodriguez, Benjamin Taylor, Sarah Unatin, Maria A. Valderrama, and Julia Wischmeier.

This Second Edition of *State Drone Law* is built on the foundation of the First Edition we published in 2016. We again thank Jordann L. Allen, Patrick M. Bailey, L. Jon Bielby, Matletha N. Fuller, Kyle P. Hunter, Nora Rachelle Porter, Randell H. Rowe, IV, Starleigh Smith, and Donald L. Thompson for their help in creating the First Edition of this book.

Our best wishes go with you all.

DISCLAIMER

No part of this book is legal advice. Please do not make legal decisions based solely on what you read here. Seek the guidance of a legal professional who can talk through the issues with you.

After all, that's the responsible thing to do.

We must also stress that “drone law” is one of the fastest-moving legal disciplines in the United States. Things change quickly.

That makes writing a reference book tricky, especially one based on what 50 state legislatures are doing.

Given these realities, we have made our best efforts to ensure that the information in this book is current as of June 1, 2017.

Future versions of this book will incorporate changes in state law. We welcome your suggestions for how we can make the next edition better.

Please sign up for the next update at www.DroneLawyers.com.

PART I:
U.S. DRONE LAW: PAST, PRESENT, AND FUTURE

Welcome to the Drone Revolution

Drones are bringing monumental economic and legal changes to our world. They represent a new, exponential technology that is as important and world-changing as the internet and smartphones.

The flying robots that we call “drones” are a confluence of three different technologies put together at scale for the first time ever. These technologies are: (1) light, inexpensive, reliable airframes that are easy to fly; (2) sensor technology that gets smaller and more powerful each year; and (3) cloud-based data storage and computing power that gets cheaper all the time.

These advances have made it easier than ever to gather any kind of data by putting small, powerful sensors on reliable, inexpensive, easy to fly airframes. Cloud data storage allows for the capture of massive amounts of data at negligible cost. On-demand computing power allows drone entrepreneurs to stitch data together into useful information products. This is the main value proposition for drone technology.

Because the “deliverable” here is an information product, entrepreneurial imagination is the only limit on the drone industry. This means that drone companies have functionally infinite potential.

Let's say that again: the potential reach of the drone industry is *functionally infinite*.

This is not just about flying robots. This is not just about automated aviation. This is about creating a brand new industry in the United States, and around the world.

Welcome to the Drone Revolution.

A Note About Terms

Before moving forward, let's address our use of the word "drone" in this book. Over the years, there has been some controversy over using "the D-Word" to describe the small fixed-wing and multi-rotor devices that are flying in our skies. The controversy exists because "drone" has no fixed meaning. It is a pop-culture term. It means whatever the speaker wants it to mean.

With that said, the word is not going away. It's in the air, in the industry, and is part of our shared language. Given that states are using the term "drone" in their statutes, we believe we are justified in using it in this book.

In that spirit, we will sometimes use the word "drone" in place of the more technically correct "Unmanned Aircraft System" wherever such usage is appropriate.

The Purpose of This Book

As you will see in the following pages, most states have passed legislation aimed at regulating the drone industry. This is not a new phenomenon.

For years now, state legislatures have grappled with the use of drones by their citizens. Much of this has occurred in the absence of clear regulatory guidance from the FAA. States were attempting to regulate an industry that was artificially hobbled by a vague, constantly changing federal regulatory scheme.

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Thankfully, the federal regulations are coming into focus. The long-awaited “Part 107” regulations for small unmanned aircraft systems – or “sUAS” – went into effect on August 29, 2016.

Though there are still many questions about these regulations, at least they are *in effect*. Until they were in place, any commercial drone activity required a special exemption from the FAA. Without the exemption, no one could legally fly.¹

Things are different now. Today, commercial drone operators have a clear path to operating legally under the FAA regulations. This means that many new companies are going to start flying, nationwide.

When more drone entrepreneurs start flying under the new federal regulations, the practical effects of state laws that have been passed over the years will become clear. Legislative ideas that looked desirable to some when the drone industry was small may begin to hurt real businesses. This will happen in every state.

The purpose of this book is to serve as a convenient reference tool that collects the laws of each state into one volume. Though many states have drone laws “on the books” today, every state will eventually have one.

If the drone industry is to thrive, entrepreneurs and the attorneys that serve them must understand what laws are “out there” that may impact the industry. This book is a step in that direction.

What About Preemption?

“But Wait,” you might say. “Won’t state drone statutes be preempted by federal law?” Good question! The answer is *maybe*.

In our discussions with legal professionals in this space, the consensus appears to be that the FAA will have the authority to determine what a

¹ Make no mistake, though – many people were flying without exemptions and daring the FAA to catch them. Some did get caught, as FAA enforcement actions are steadily increasing.

“safe” drone flight *is*. Beyond that, state legislatures may have unbridled authority to determine what drone operations are *legal* in the context of an otherwise safe flight.

The question of where that line is, of what the states can and cannot regulate in the “drone law” sphere, will have to be litigated. This will happen in state after state as different issues arise. Such is the nature of our federal system.

Given that dynamic, drone companies are well advised to understand what the laws are in the states they are operating in. Though the preemption question may be answered definitively in the future, today it remains unsettled. Therefore, this book exists as a tool for drone companies to help assess the regulatory situation in the states they operate in.

Thank You for Joining Us

Thank you for coming with us on this journey. Let us know that you want our next update by signing up at www.DroneLawyers.com.

Keep on Flying,

Steven M. Hogan
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PART II: STATE DRONE LAW

The following pages address what each state has done (if anything) with regard to drone technology. To avoid any gaps in our list, we include entries for states that had not enacted a “drone law” as of June 1, 2017.

All citations are to the statutes or regulations in effect as of June 1, 2017.

Please let us know that you would like future updates by signing up at www.DroneLawyers.com.

Alabama

Alabama has not passed a law addressing drone technology.

Alaska

Alaska statutes define an “unmanned aircraft system” as “an unmanned aircraft operated without direct human intervention from inside the aircraft”. In Alaska, there are three areas within the statute that contain laws related to unmanned aircraft systems: (1) use by law enforcement officials, (2) retention of images captured by small unmanned aircraft systems, and (3) development of training in operation. There are no statutes

in Alaska applicable to private or hobbyist use of drones.²

The most comprehensive of the Alaska drone statutes are those related to the operation of unmanned aircraft systems by a law enforcement agency. Generally, law enforcement agencies are banned from using unmanned aircraft systems. There are, however, some exceptions. Law enforcement agencies can use unmanned aircraft systems to gather evidence in a criminal investigation when they have a warrant or an exception to the warrant requirement or for other purposes if those purposes don't constitute an invasion of personal privacy and are consistent with minimum operational requirements.³

In order to use an unmanned aircraft system for one of the purposes listed above, the law enforcement agency must adopt and adhere to certain minimum procedural standards, such as obtaining federal authorization to operate the aircraft system. Other minimum procedural requirements allow the system to be operated and supervised only by those trained in their operation and only for a public purpose, and require approval of the flight plan by the commissioner. Law enforcement agencies are also required to maintain records of each flight, notify the public of the operation of such systems unless notification would be dangerous, and keep the community involved in the development of policies related to unmanned aircraft systems. Furthermore, law enforcement agencies cannot retain images captured by the drone, unless they are part of an investigation, for training, or as required by federal or state law or municipal ordinance. A municipality is not permitted to adopt ordinances that allow for the release of images taken by an unmanned aircraft system for any other purpose.⁴

The Alaska statutes also address the operation of drones for training. The University of Alaska is permitted to establish a program to train individuals in the operation of unmanned aircraft systems.⁵

² Alaska Stat. § 18.65.909(2).

³ Alaska Stat. §§ 18.65.900-18.65.902, 18.65.909.

⁴ Alaska Stat. §§ 18.65.901, 18.65.903, 29.35.146(a).

⁵ Alaska Stat. §§ 14.40.082.

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Arizona

Arizona’s law uses the terms model aircraft, civil unmanned aircraft, and public unmanned aircraft to describe drones as used for different purposes. According to the FAA definition used in the Arizona statute, a model aircraft is an unmanned aircraft that is “capable of sustained flight in the atmosphere; flown within visual line of sight of the person operating the aircraft; and flown for hobby or recreational purposes.” The statute defines civil unmanned aircraft as “an unmanned aircraft or unmanned aircraft system that is operated by a person for any purpose other than strictly for hobby or recreational purposes, including commercial purposes, or in the furtherance of or incidental to any business or media service or agency.” A public unmanned aircraft is an unmanned aircraft “operated by a public agency for a government-related purpose.” Unmanned aircraft means “an aircraft, including an aircraft commonly known as a drone, that is operated without the possibility of direct human intervention from within or on the aircraft.”⁶

Under Arizona law, the operation of a model aircraft or civil unmanned aircraft is a class 1 misdemeanor if it is prohibited by federal law or regulation, including FAA regulations, or interferes with the operation of law enforcement, firefighters, or emergency services. The operation or use of an unmanned aircraft to photograph or linger over or near a critical facility in the furtherance of a crime is a class 6 felony. Critical facilities include wastewater treatment and energy generation facilities, court houses, jails and prisons. The statute does not apply to a person or entity authorized by the FAA to operate a drone if the operation is in compliance with the authorization granted or FAA rules, as well as first responders or emergency workers using a public unmanned aircraft in their official functions.

The statute also prevents the adoption of any ordinance, policy or rule that relates to the ownership and operation of unmanned aircraft by a city, town or county unless expressly permitted by law, with some exceptions. For example, a city, town, or county is permitted to regulate the operation

⁶ FAA Modernization and Reform Act of 2012, Pub. L. No. 112-95, § 336, 126 Stat. 11, 76; Ariz. Rev. Stat. § 13-3729.

of a public unmanned aircraft that is owned by the city, town or country.⁷

Arizona law also provides that carelessly or recklessly operating an aircraft “in the air, on the ground or on the water” in a manner that endangers another person or another’s property is a class 1 misdemeanor. In evaluating whether a person has been careless or reckless in operation of the aircraft, the statute directs the courts to seek guidance from federal statutes and regulations setting forth safe operation standards of aircraft. For purposes of the statute, aircraft includes model aircraft and civil unmanned aircraft.⁸

Arkansas

Arkansas defines “drones” as “unmanned aircraft systems.” Arkansas’ definition of an “unmanned aircraft system” is very broad, covering any “unmanned, powered aircraft that: (i) Does not carry a human operator; (ii) Can be autonomous or remotely piloted or operated; and (iii) Can be expendable or recoverable.”⁹

Arkansas law identifies things which are not “unmanned aircraft systems,” such as satellites or “unmanned aircraft systems” that are being used by the federal government, the state after consultation with the governor, or as a result of a state or federal contract to inspect critical infrastructure.

The statute outlaws the use of an unmanned aircraft system to obtain information about critical infrastructure, expressly forbidding the use of unmanned aircraft systems to “conduct surveillance of, gather evidence or collect information about, or photographically or electronically record critical infrastructure without the prior written consent of the owner of the critical infrastructure.”

“Critical infrastructure” means: (A) An electrical power generation or delivery system; (B) A petroleum refinery; (C) A chemical or rubber manufacturing facility; or (D) A petroleum or chemical storage facility.”

⁷ Ariz. Rev. Stat. § 13-3729.

⁸ Ariz. Rev. Stat. § 28-8280.

⁹ Ark. Code § 5-60-103.

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In contrast, Arkansas does not consider any use of an “unmanned aircraft system” illegal if it is done with the prior written authorization of the Arkansas Department of Emergency Management. The statute states that the Department of Emergency Management shall come up with its own standards for authorization, though the statute does not set a time-frame for this.

The law does not prohibit one from using drones on their own property, someone else’s property with that property owner’s consent, or by one who does not own the property but has a “valid lease, servitude, right-of-way, right of use, permit, license, or other right.” An insurance company may also use a drone for investigating damage to an insured property or for underwriting an insurance risk.

Arkansas considers the illegal use of a drone a Class B misdemeanor. A repeated offense results in a Class A misdemeanor. A Class B misdemeanor can result in up to 90 days in jail and a fine of up to \$1,000.00, while a Class A misdemeanor can result in up to one year in jail and a fine of up to \$2,500.00.¹⁰

Violation of the “unlawful use of unmanned aircraft system” can also result in civil penalties. Under this law, the perpetrator is liable to the owner of the critical infrastructure, “(1) Any actual damages sustained as a result of the violation, or ten thousand dollars (\$10,000), whichever is greater; (2) Three times actual damages, or ten thousand dollars (\$10,000), whichever is greater, in a case in which the violation resulted in profit or monetary gain; and (3) The costs of an action brought under this section, together with reasonable attorney’s fees as determined by the court.”¹¹

In addition, the statutes regarding voyeurism and video voyeurism penalize the use of “unmanned aircraft systems” for these purposes.¹² For example, a person commits the crime of voyeurism if for the purpose of sexual arousal or gratification he knowingly uses an unmanned aircraft to

¹⁰ Ark. Code §§ 5-4-201, 5-4-401.

¹¹ Ark. Code § 16-118-111.

¹² Ark. Code §§ 5-16-101, 5-16-102.

look into a private place or a public accommodation in which it's reasonably expected that a person will be nude or partially nude, without the consent of each person who is present. Also, it is an offense to enter a person's private property through the use of an unmanned aircraft, without the other person's consent if all of the following circumstances apply: "(A) The person looks into the dwelling with the purpose to intrude upon or interfere with a person's privacy; (B) The person looks into a part of the dwelling in which an individual is present; (C) The individual present has a reasonable expectation of privacy in that part of the dwelling; and (D) The individual present does not consent to the person's looking into that part of the dwelling."¹³

The crime of voyeurism is punishable as a Class A misdemeanor, unless the victim is under 17 years old or if the person who commits the offense holds a position of trust or authority over the victim, in which it will be punishable as a Class D felony.¹⁴

Next, a person commits the crime of video voyeurism if he or she knowingly uses an unmanned aircraft that is concealed, flown in a manner to escape detection, or disguised to secretly videotape, film, photograph, record, or view a person for the purpose of viewing a person's clothed body parts for which he or she has a reasonable expectation of privacy, without the person's knowledge or consent, under circumstances in which the person has a reasonable expectation of privacy.¹⁵

The crime of video voyeurism, committed in this manner, is punishable as a Class B misdemeanor, but will be a Class A misdemeanor if the person who created the video distributed it to another person or posted it online in an accessible format.¹⁶

California

California's first "drone law" was not specifically aimed at drones, but rather amended the invasion of privacy statute to penalize drone operators

¹³ Ark. Code § 5-16-102(b).

¹⁴ Ark. Code § 5-16-102(c).

¹⁵ Ark. Code § 5-16-101(b).

¹⁶ Ark. Code § 5-16-101(c).

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who violate the privacy of others as described by the statute. The statute provides a civil cause of action for plaintiffs whose personal, private, or family activities were knowingly captured through trespass in a way that was offensive to a reasonable person. The relevant drone provision is “airspace above the land of another person” when describing what constitutes trespass.¹⁷

Drone operators who violate the statute may be liable for up to three times the amount of any general and special damages that are proximately caused by the operation. Punitive damages are also available. If the invasion is found to be a commercial purpose, the person is also subject to disgorgement of funds. The statute provides that the civil remedies described do not preclude plaintiffs from pursuing other rights or remedies in law or equity. Aside from civil damages owed to plaintiffs, violators of the statute are subject to a civil fine not less than \$5,000 and not more than \$50,000.

The statute creates vicarious liability for people who direct, solicit, or cause another to violate the statute. The liability for vicarious tortfeasors includes any general or special damages arising from the activity, punitive damages, and the aforementioned civil fine. Actual knowledge of invasion of privacy is required for liability under this statute. The statute does not affect the lawful surveillance of individuals within the scope of employment of surveillors and upon reasonable suspicion that the surveillees are engaged in activity that is criminal, fraudulent, or in violation of administrative regulations.

California law defines drone as an “unmanned aircraft” functioning without the possibility of direct human involvement. The term also includes the “communication links” and controller which help the pilot navigate the ‘aircraft’.¹⁸

In September 2016, California added a new set of drone laws that limit the civil liability of first responders who damage drones in the scope of

¹⁷ Cal. Civ. Code § 1708.8.

¹⁸ Cal. Gov't Code § 853.5.

their work.¹⁹ The new laws also create a misdemeanor offense for people who fly drones in a way that interferes with the work of first responders and other emergency workers.²⁰

Colorado

Although the state of Colorado has not passed a law addressing drone technology, drones have been addressed in state regulation promulgated by the Colorado Department of Natural Resources.

A Parks and Wildlife regulation titled “Aids in Taking Wildlife,” expressly prohibits using a “drone to look for, scout, or detect wildlife as an aid in the hunting or taking of wildlife.”²¹ In doing so, it supplements the state’s Wildlife Act, which does not address drones by its own terms but allows for the regulation of taking, possession, and use of wildlife.²²

The regulation defines drone broadly, stating that it includes, “without limitation, any contrivance invented, used or designed for navigation of, or flight in the air that is unmanned or guided remotely. A drone may also be referred to as ‘Unmanned Aerial Vehicle’ (UAV) or ‘Unmanned Aerial Vehicle System.’ (UAVS).”²³

Connecticut

Connecticut has not passed a law addressing drone technology. The Connecticut Department of Energy and Environmental Protection has taken the position that its regulations prohibit drone operations as a “potentially hazardous activity” that may be “disruptive to wildlife.” The regulations relied on by the Department do not specifically reference drones.²⁴

¹⁹ Cal. Civ. Code § 43.101; Cal. Gov’t Code §§ 853, 853.1, 853.5.

²⁰ Cal. Penal Code § 402(a)(1).

²¹ Colo. Code Regs. § 406-0:004.

²² Colo. Rev. Stat. § 33-1-106.

²³ Colo. Code Regs. § 406-0:004.

²⁴ See Connecticut DEEP, *Use of Remote Controlled Aircraft or “Drones”*, http://www.ct.gov/deep/cwp/view.asp?a=2716&q=575106&deepNav_GID=1650 (last visited September 22, 2017) (citing Conn. Agencies Reg. § 23-4-1).

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Connecticut has recently passed a statute limiting municipalities in enacting regulations regarding commercial unmanned aircraft. “Commercial unmanned aircraft” is defined as “an aircraft operated remotely by a pilot in command holding a valid remote pilot certificate with a small unmanned aircraft systems rating issued by the FAA. The statute prohibits municipalities from enacting an ordinance or resolution that regulates ownership, possession, purchase, etc. of any commercial unmanned aircraft except as authorized by federal or state law, and so long as they don’t conflict with policies and procedures adopted by the Connecticut Airport Authority. The statute makes an exception for municipalities that are also water companies. Such municipalities may adopt ordinances or resolutions that regulate the flying of private and commercial unmanned aircraft over the public water supply and certain classes of land. These ordinances and resolutions may not conflict with federal law or Connecticut Airport Authority policies and procedures.²⁵

Delaware

The Delaware drone law defines unmanned aircraft system as a “powered, aerial vehicle that does not carry a human operator; uses aerodynamic forces to provide vehicle lift; can fly autonomously or be piloted remotely; and can be expendable or recoverable.” The statute prohibits the flying of an unmanned aircraft system over any sporting event, concert, festival or any other event with more than 1,500 people in attendance, any critical infrastructure, or an incident to which first responders are responding.²⁶

The statute carves out exceptions where the drone is being used for law enforcement purposes, with written consent by the property owner, where it is used by an institution of higher education for educational purposes and in compliance with FAA regulations, or where it is used for a commercial or other purpose if the operator is authorized by the FAA.²⁷

Any first offense under the statute is an unclassified misdemeanor. Subsequent offenses are class B misdemeanors. Where the unlawful use of

²⁵ Conn. Gen. Stat. 17-52 § 1.

²⁶ Del. Code tit. 11, § 1334.

²⁷ *Id.*

an unmanned aircraft system results in physical injury to a person or property damage, the offense is a class A misdemeanor.²⁸

The statute further provides for preemption over any county or municipal ordinance.

Drones are also addressed as part of a larger piece of legislation granting the Secretary of Transportation the right to adopt rules and regulations, issue permits, and set fees relating to the operation and movement of vehicles over state roads.²⁹

Under this statute, utility companies and governmental agencies may obtain a multi-trip permit allowing it to operate a “manned and/or unmanned aerial type single motor vehicle up to 50 feet long.” Each multi-trip permit is valid for an individual vehicle only (non-transferable) and lasts from the first day of the month until the first day of the next month. Each permitted vehicle must carry the permit with it during authorized movement and must be open to inspection by any police officer.³⁰

This statute does not specify any criminal or civil penalties that will result from its violation. It only allows utility companies and governmental agencies to obtain permits for drone use on state roads.³¹

Delaware state regulations prohibit any person from voluntarily landing drones or other apparatus for aviation, such as an aircraft, parachute, or balloon, on any lands or waters owned by the Division of Parks and Recreation without prior consent from the Director. Forced or emergency landings are permitted.³²

Flying radio-controlled model aircraft, drones, or the launching of model rockets is not allowed in Parks and Recreation spaces except in areas

²⁸ *Id.*

²⁹ Del. Code tit. 21, § 4504.

³⁰ *Id.*

³¹ 7 Del. Admin. Code § 9201-13.0.

³² *Id.*

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that have been set aside and designated for such purposes.³³

Special policies regarding insurance and operating conditions are forthcoming. This statute does not specify any criminal or civil penalties that will result from its' violation. It applies to both commercial and hobbyist drone use.³⁴

Florida

Section 934.50, Florida Statutes, defines a drone as a “powered, aerial vehicle that: 1. Does not carry a human operator; 2. Uses aerodynamic forces to provide vehicle lift; 3. Can fly autonomously or be piloted remotely; 4. Can be expendable or recoverable; and 5. Can carry a lethal or nonlethal payload.”³⁵

The statute prohibits a person, state agency, or political subdivision from using a drone to record an image or surveillance of privately owned property. It also prohibits use of a drone to record an image or surveillance of an individual owner, tenant, occupant, invitee or licensee on private property, even if they are located at ground level and are observable from the air. The statute states that any evidence obtained this way is prohibited from being entered into evidence in court.

The statute provides a number of exceptions to its prohibitions. For example, Homeland Security may use drones in Florida to counter terror risks so long as “credible information indicates that there is such a risk.” A law enforcement agency can use a drone when they have a warrant, or when there is a belief that “swift action” is needed to prevent imminent danger to life or serious damage to real property. Drones may also be used by an employee or contractor of a property appraiser who uses the drone solely for the purpose of assessing property for ad valorem taxation, or to capture images for an electric, water, or natural gas utility.

The law provides an exception for a “person or entity engaged in a business or profession licensed by the state ... if the drone is used only to

³³ *Id.*

³⁴ *Id.*

³⁵ § 934.50, Fla. Stat.

perform reasonable tasks within the scope of practice or activities permitted under such person's or entity's license." This exception does not cover any profession that includes "obtaining information about the identity, habits, conduct, movements, whereabouts, affiliations, associations, transactions, reputation, or character of any society, person, or group of persons." This "exception to the exception" ultimately prevents licensed private detectives from using drones.

While Florida's drone law does not attach any criminal penalties for a prohibited use of a drone, an aggrieved party may bring a civil claim against a drone operator for "all appropriate relief" related to a violation of the statute. The statute allows persons to bring injunction claims against any law enforcement agency, individual, or political subdivision that violates the statute. Punitive damages may also be sought and all remedies provided for are "cumulative to other existing remedies." Attorneys' fees may be awarded to the "prevailing party" in such actions, with a potential multiplier for contingency cases.

The Florida Legislature made several changes to the laws regulating drones when they passed the Unmanned Aircraft Systems Act on June 26, 2017.³⁶ The legislature used the same definition of 'drone', as provided in Section 934.50(2), Florida Statutes, however, it adds the definition of an "Unmanned Aircraft System." An "Unmanned aircraft System' means a drone and its associated elements" Although it is not clear if it was the Legislature's intention, the Unmanned Aircraft Systems Act is very similar to the recently proposed Drone Federalism Act, which seeks to affirm state regulatory authority regarding the operation of drones.³⁷

First, the act looks to unify Florida's drone regulation by vesting in the state "the authority to regulate the operation of unmanned aircraft systems . . . except as provided in federal regulations, authorizations, or exemptions." Although political subdivisions are now prevented from enacting any

³⁶ Unmanned Aircraft Systems Act, 2017 Fla. Laws ch. 150 (to be codified at § 330.41, Fla. Stat. (2017)).

³⁷ Jake Lamb, *Florida Gov. Rick Scott Signs Drone Regulation Bill*, FLYING, <http://www.flyingmag.com/florida-gov-rick-scott-signs-drone-regulation-bill> (Jul. 5, 2017).

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ordinances or resolutions pertaining to the “design, manufacture, testing, maintenance, licensing, registration, certification, or operation of an unmanned aircraft system,” these limitations “do not limit the authority of a local government to enforce local ordinances relating to nuisances, voyeurism, harassment, reckless endangerment, property damage, or other illegal acts arising from the use of unmanned aircraft systems”

Additionally, the Unmanned Aircraft Systems Act focuses on the protection of “critical infrastructure facilities.” These facilities include, but are not limited to: electrical power generation facilities, mining facilities, gas facilities, and wireless communication facilities. Specifically, a person may not knowingly or willfully allow a drone to operate over, make contact with, or interfere with the operations of any of these facilities. A person who violates this section commits a misdemeanor as provided in Sections 775.082 and 775.083, Florida Statutes.

Finally, a key component of this legislation is language that potentially “plays favorably for Amazon’s plan of using drones to deliver product from its patent-pending Drone-Delivery Hive.” While the interference with critical infrastructure facilities could potentially yield a criminal penalty, subparagraph (a)(1) “does not apply to a drone operating in transit for commercial purposes in compliance with Federal Aviation Administration regulations, authorizations, or exemptions.”³⁸

Georgia

Georgia has not passed a law addressing drone technology.

Hawaii

Hawaii state law does not yet regulate the use of drones. However, the statutes do establish an unmanned aerial systems test site advisory board. The advisory board is a part of the aerospace advisory committee, and oversees the planning and operation of a drone test site. The board is composed of seven uncompensated members including, among others, the director of transportation and the president of the University of Hawaii or their designees, a member representing the Hawaii business community, and two members representing the aerospace or aviation industries. Terms

³⁸ *Id.*

are limited to four years.³⁹

The test site is to be managed by a chief operating officer, and the statute outlines his or her duties. Such duties include monitoring the operations of the test site, leveraging aerospace capabilities in various sectors to support testing, establishing a public website with information on the program, contracting and procurement, and submitting an annual report to the legislature. The chief operating officer also serves as Hawaii's representative on the Pan-Pacific Unmanned Aerial Systems Test Range Complex management team.⁴⁰

Idaho

Idaho law defines the term “unmanned aircraft system” as a “powered aerial vehicle that does not carry a human operator, can fly autonomously or remotely and can be expendable or recoverable.” The definition specifically excludes model airplanes and rockets, including those used for sport or recreational purposes, and unmanned aircraft systems used for mapping or resource management. The statute goes on to prohibit surveillance of, the gathering of evidence or information about, and photographic or electronic recording of “specifically targeted” persons or private property without a warrant. The statute makes an exception for emergency response for safety, search and rescue, and controlled substance investigations. Photographing persons without their written consent for the purpose of publishing or disseminating the photograph is also prohibited.⁴¹ However, an owner of facilities located on lands not owned by him under a right of occupancy may use unmanned aircraft systems to aerially inspect the facilities.⁴²

The statute creates a civil cause of action against the person, entity, or state agency who has wrongfully recorded a person, entitling him or her to the greater of \$1,000 or actual and general damages plus “reasonable” attorneys' fees and costs.⁴³

³⁹ Haw. Stat. § 201-72-6.

⁴⁰ Haw. Stat. § 201-72-7.

⁴¹ Idaho Code §§ 21-213(1)-(2).

⁴² Idaho Code § 21-213(4).

⁴³ Idaho Code § 21-213(3).

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Idaho law also prohibits the use of drones to aid in hunting activities unless the hunter has a physical disability and obtains a permit for such use.⁴⁴

Illinois

The Illinois Freedom from Drone Surveillance Act defines a “drone” as “any aerial vehicle that does not carry a human operator.” The Act describes a general ban on drone use for law enforcement agencies, then carves out exceptions.⁴⁵

The exceptions allow law enforcement to use drones in a number of situations. They can be used to counter a high risk terrorist attack, if the U.S. Secretary of Homeland Security determines that there is a risk; to locate a missing person (not in conjunction with a criminal investigation); or for crime scene and traffic crash scene photography (which must only document the specific occurrence and not go beyond the scope geographically or temporally; moreover, if the scene is on private property, the agent must obtain either a search warrant based on probable cause, or consent to search).

Additionally, the exceptions allow drones to be used in other types of cases where a search warrant is obtained based on probable cause, as long as the warrant is limited to 45 days (subject to renewal by a judge). An agent can also use a drone if he or she has reasonable suspicion that swift action involving the drone will be necessary to: (1) prevent imminent harm to life; (2) prevent the imminent escape of a suspect; or (3) prevent the imminent destruction of evidence. These three uses do not require a search warrant; however, the use of a drone for these exceptions is limited to a 48 hour period, and requires the chief executive officer of the agency to write a report on the drone’s use to the local State’s Attorney within 24 hours of initiating the drone’s activity.

Lastly, there is an exception which allows law enforcement to use

⁴⁴ Idaho Code § 36-1101.

⁴⁵ Freedom from Drone Surveillance Act, 725 Ill. Comp. Stat. 167/1 – 167/40.

drones during a disaster or public health emergency, as defined in § 4 of the Illinois Emergency Management Act. This exception does not require an official declaration of the disaster or emergency, and allows drones to be used to obtain information that is necessary to determine whether or not such an official declaration should be given. The exception also allows drone use by agents during the disaster or emergency to monitor weather conditions, to survey damage, and to coordinate response and recovery efforts.

The Act has specific requirements regarding the use of information gathered by drones. An agency must destroy any drone-obtained information within 30 days and must not disclose it, although an agency's supervisor may retain information or disclose information to another governmental agency if there is reasonable suspicion that the information contains evidence of criminal activity or if the information is relevant to an ongoing investigation or pending criminal trial. The Act dictates that if a court finds by a preponderance of the evidence that the drone was used in violation of the act, then the drone-obtained information is presumed inadmissible in any judicial or administrative proceeding. The State can overcome this presumption by demonstrating the applicability of a judicially recognized exception to the exclusionary rule of the Fourth Amendment to the U.S. Constitution or Article I, Section 6 of the Illinois Constitution.

The Act requires the Illinois Criminal Justice Information Authority to report on its website, by July 1st of each year, every law enforcement agency that owns a drone, and the number of drones each agency has. The Act prohibits an agency from acquiring information from a drone owned by a private party. However, the Act also allows private third parties to voluntarily submit drone-obtained information to an agency, if they wish.

The Illinois "Unmanned Aerial System Oversight Task Force Act" establishes a task force to provide insight into the creation of laws and rules governing drone operation and use within the state. The task force is to be filled with members from multiple agencies and interest groups; the Governor ultimately chooses who sits on the task force. The task force is required to submit its report with recommendations for future laws and regulations to the Governor and the General Assembly no later than July 1,

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2016. This Act is to be repealed on September 1, 2017.⁴⁶

The Illinois Criminal Code includes a provision stating that a person commits the crime of “hunter or fisherman interference” when they use a drone to interfere with someone’s lawful hunting or fishing or animals. The statute does not apply to law enforcement personnel, officers of the U.S. Fish and Wildlife Service, and employees of the Department of Natural Resources, as long as their actions are authorized by law and necessary for the performance of their duties. The section also does not apply to landowners, tenants, or lease holders exercising their rights to enjoyment of land, including farming and restricting trespass.⁴⁷

Violating the section is considered a Class A misdemeanor, which can result in the revocation of any hunting or fishing licenses for five years. Violators can be enjoined by the court in a civil suit, and can be subject to compensatory and punitive damages.⁴⁸

Indiana

The Indiana “Drone Law” is codified as part of the state’s criminal statutes. The statutes define an “unmanned aerial vehicle” as an aircraft that does not carry a human operator and that is capable of flight under remote control or some type of autonomous programming. An “unmanned aerial vehicle” is considered a form of “tracking device,” and electronic monitoring through the use of an unmanned aerial vehicle does not fall within the scope of the phrase “lawful detention.”⁴⁹

For the purposes of IC 35-33-5, the “use of an unmanned aerial vehicle” is defined as a law enforcement officer utilizing drones to obtain evidence related to the enforcement of laws. Such use includes “the interception of wire, electronic, or oral communications,” and “the capture, collection, monitoring, or viewing of images.”⁵⁰

⁴⁶ Unmanned Aerial System Oversight Task Force Act, 20 Ill. Comp. Stat. 5065/1 – 5065/99.

⁴⁷ 720 Ill. Comp. Stat. 5/48-3(b)(10), (c)(2).

⁴⁸ 720 Ill. Comp. Stat. 5/48-3(d), (e)(1)-(2).

⁴⁹ Ind. Code §§ 35-31.5-2-342.3; 35-31.5-2-337.5; 35-31.5-2-186.

⁵⁰ Ind. Code § 35-31.5-2-343.7; 35-33-5-0.5.

The code provides that a law enforcement officer must obtain a search warrant to use a drone unless the officer determines that the drone's use would be required as a result of: (1) the existence of exigent circumstances which would necessitate a warrantless search; (2) the substantial likelihood of a terrorist attack; (3) the need to conduct a search and rescue/recovery operation; (4) the need to respond to or mitigate the results of a disaster; or (5) the need to perform surveys for a non-criminal justice purpose. Additionally, an officer may use a drone without a warrant if there is consent from any affected property owner, or if it is needed to obtain aerial photographs or videos of an automobile accident on a public roadway.⁵¹ Further, a person cannot use an unmanned aerial vehicle to interfere with the job duties of "a law enforcement officer; a firefighter; an emergency medical person; or a member of a search and rescue team or mission."⁵²

The code states that any drone-obtained communications or images that violate the warrant requirements (as described above), or any evidence derived from those communications or images, will be inadmissible as evidence in an administrative or judicial proceeding.⁵³

A person who operates an unmanned aerial vehicle in a manner that is intended to subject another person to harassment commits "remote aerial harassment."⁵⁴ A sex offender who knowingly or intentionally operates an unmanned aerial vehicle to follow, contact or capture pictures or recordings of others is subject to a "condition of probation, [a] condition of parole, [a] condition or rule of a community corrections program; or [a] rule of a community transition programs" that bans the offender from pursuing, contacting, or taking images of other individuals.⁵⁵

An individual who has invaded another's privacy cannot defend his violation due to his use of an unmanned aerial vehicle.⁵⁶ If an individual

⁵¹ Ind. Code § 35-33-5-9.

⁵² Ind. Code § 35-44.1-4-10.

⁵³ Ind. Code § 35-33-5-10.

⁵⁴ Ind. Code § 35-45-10-6.

⁵⁵ Ind. Code § 35-42-4-12.5.

⁵⁶ Ind. Code § 35-46-1-15.1.

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uses an unmanned aerial vehicle to “peep” and directs the device to enter another’s dwelling or the land on which the individual’s dwelling is located on, the individual will be guilty of “remote aerial voyeurism.” “Peep” is defined as “any looking of a clandestine, surreptitious, prying, or secretive nature.”⁵⁷

Indiana law also prohibits the use of a drone to aid in the “taking” of an animal. The statutes define “taking” as the act or attempted act of killing, harming, shooting, spearing, catching/trapping for the purpose of killing, or pursuing for the purpose of killing. The statutes put this prohibition in place beginning fourteen days before any hunting season for a particular animal, and ending at the end of that hunting season.⁵⁸

Iowa

Iowa law states that evidence obtained by an unmanned aerial vehicle is inadmissible as evidence in a criminal or civil proceeding, unless the evidence was obtained pursuant to a search warrant or if the evidence is “otherwise obtained in a manner consistent with state and federal law.”⁵⁹

Iowa law also disallows the use of unmanned aerial vehicles for traffic law enforcement.⁶⁰

Kansas

Kansas amended its Protection from Stalking Act in 2016 to address drones. The pertinent amended section adds “unmanned aerial system” to the definition of harassment.⁶¹ The amendment provides that harassment includes flying a “unmanned aerial system” over or near any dwelling, occupied vehicle, or any other place where there is a reasonable expectation of safety and privacy. In order for a harassment claim to be successful, there must be evidence of conduct that consists of two or more acts that display a continuity of purpose, which would cause a reasonable person to suffer

⁵⁷ Ind. Code § 35-45-4-5.

⁵⁸ Ind. Code § 14-22-6-16.

⁵⁹ Iowa Code § 808.15.

⁶⁰ Iowa Code § 321.492B.

⁶¹ Act of May 6, 2016, ch. 58, 2016 Kan. Laws (S.B. 319) (amending Kan. Stat. §§ 60-1507, 60-31a02, 61-2708).

substantial emotional distress.⁶²

The statute defines “unmanned aerial system” as a “powered aerial vehicle that does not carry a human operator; uses aerodynamic forces to provide vehicle lift; may fly autonomously or be piloted remotely; may be expendable or recoverable; and may carry a lethal or nonlethal payload.”⁶³

Kentucky

Kentucky has not passed a law addressing drone technology.

Louisiana

Louisiana state law provides that the state shall have exclusive jurisdiction to regulate all unmanned aircraft systems and all unmanned aerial systems. This means that all state law will preempt and supersede any rule, regulation, code, or ordinance of any political subdivision or other local government. The definition of unmanned aircraft system does not include use of a satellite orbiting the earth, an unmanned aircraft system used by the federal or state government or agent for the government to conduct surveillance of specific persons, use by local law enforcement agencies or fire departments, etc. If federal law or regulation preempts any of the provisions of the Louisiana regulation, the federal regulation should be deemed to be the controlling law.⁶⁴

The Louisiana unmanned aircraft system laws apply to the use of drones by the Department of Agriculture and Forestry (the “department”) in the course of agricultural operations.⁶⁵

Persons operating an unmanned aerial system for commercial agricultural operations must obtain a state license and registration from the department. Licenses are provided only after submission and approval of a written application and completion of an education and safety training course administered by the Louisiana Cooperative Extension Service or the Southern University Agricultural Research and Extension Center. Licenses

⁶² Kan. Stat. § 60-31a02.

⁶³ *Id.*

⁶⁴ La. Rev. Stat. §§ 2:2.

⁶⁵ La. Rev. Stat. §§ 3:41-48.

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and registrations are valid for three years and may be renewed. The commissioner of the department is vested with the power to adopt rules and regulations under these statutes, and proposed regulation would identify specific registration requirements.⁶⁶

Louisiana law addresses property rights in two contexts: operation and data collection. Users are permitted to operate unmanned aerial systems to engage in agricultural commercial operations within the “geographical confines of their property.” Contracted or hired personnel working on private property are also allowed to operate unmanned aerial systems, but only with “written permission of the landowner or entity controlling the agricultural commercial use of the property.” Data obtained can only be used when conducting an agricultural commercial operation or for research at a public state college or university. The collected data is the property of the legal owner of the property where it was collected, unless the owner provides written approval. When the data is being used for research at a public state postsecondary educational institution, property rights can be negotiated.⁶⁷

The statute does not include criminal penalties for drone use. The commissioner of the department, however, may issue administrative stop orders or civil penalties of up to \$500.00 if there is a violation. Violations include failure to obtain a license, register an unmanned aerial system, or pay penalties or costs. Any other violations of the statute or interference with the department’s duties are also subject to penalty.⁶⁸

Louisiana has outlined the unlawful uses of an unmanned aircraft system outside their use in relation to agricultural operations. The intentional use of such system to conduct surveillance or gather information of a “targeted facility” without the prior written consent of the owner of the targeted facility. Violations will result in a fine up to \$500.00, or imprisonment no more than six months, or both. It is also unlawful to intentionally use an unmanned aircraft system over the grounds of a state or

⁶⁶ La. Rev. Stat. §§ 3:42, 3:43; 2016 La. Sess. Law Serv. Act 545 (H.B. 335); La. Admin. Code Tit. 7 §§ 49.101-117.

⁶⁷ La. Rev. Stat. § 3:44.

⁶⁸ La. Rev. Stat. §§ 3:45, 3:46, 3:47.

local jail, prison, or other corrections facility without written consent of the person in charge of such facility. Violations of this part can result in a fine up to \$2,000.00, or imprisonment no more than six months, or both.⁶⁹

Exceptions to the unlawful uses section apply to persons operating unmanned aircraft systems in compliance with federal law, or Federal Aviation Administration authorization or regulations or to any person engaged in agricultural commercial operations as defined previously in La. Rev. Stat. § 3:41, and the operation of unmanned aircraft by institutions of higher education conducting research, extension, or teaching programs in association with university sanctioned initiatives.⁷⁰

In addition to the unlawful uses statute, Louisiana incorporated unmanned aircraft systems into their criminal trespass and resisting an officer statutes. Persons shall not operate an unmanned aircraft system in the airspace over immovable property owned by another with the intent to conduct surveillance of the property or of any individual lawfully on the property. Resisting an officer is the obstruction of an individual acting in his official capacity and authorized by law to make a lawful arrest, lawful detention, or seizure of property or to serve any lawful process or court order when the offender knows or has reason to know that the person arresting, detaining, or seizing property, or serving process is acting in his official capacity. Such obstruction includes the knowing interference with a police impediment or structure resulting from the intentional crossing or traversing of said impediment or structure, including the airspace above the impediment or structure, by an unauthorized unmanned aircraft system constitutes resisting an officer. The statute allows law enforcement personnel or fire department personnel to disable the unmanned aircraft system if the flight of the device into the cordoned area endangers the safety of the public or officer.⁷¹

⁶⁹ “Targeted facility” is defined as petroleum and alumina refineries, chemical and rubber manufacturing facilities, nuclear power electric generation facilities, or school and school premises. La. Rev. Stat. § 14.337(B)(3)(a-d).

⁷⁰ La. Rev. Stat. § 14:337.

⁷¹ La. Rev. Stat. §§ 14:63, 14:108.

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The use of unmanned aircraft systems for the purposes of observing or filming a person where that person has not consented to the observing or filming and that is for a lewd or lascivious purpose constitutes video voyeurism. Unmanned aircraft systems have also been added to the standard voyeurism and peeping tom statutes to indicate that such use is prohibited.⁷²

Maine

Maine law defines unmanned aerial vehicles as “aircraft operated without a physical human presence within or on the aircraft that, in the manner in which the aircraft is used or the manner in which it is equipped, is capable of performing audio or visual surveillance.” The legislation states that the statute attempts to balance the potential economic driver for the state, opportunity for research and development, and benefit for security including use of devices in search and rescue efforts, with the potential threats to privacy of citizens in the enactment of all laws regarding unmanned aerial vehicles.⁷³

The statute sets out the acceptable uses of unmanned aerial vehicles for law enforcement, providing that the acquisition of any such vehicle by a law enforcement agency must be approved by the governmental body overseeing the law enforcement agency. The commissioner of the law enforcement agency may approve acquisitions in emergency situations.⁷⁴

The statute further states that a law enforcement agency’s operation of unmanned aerial vehicles must comply with Federal Aviation Administration requirements and guidelines, including obtaining applicable authorizations or waivers. In order to use an unmanned vehicle, law enforcement agencies must establish minimum standards for written policies and protocols for the use of unmanned aerial vehicles. At minimum, the standards must include: training and certification requirement for operators; requirements for prior authorization for use of an unmanned aerial vehicle by the chief administrative office of the law enforcement agency; approval by the Attorney General or chief prosecuting

⁷² La. Rev. Stat. §§ 14:283; 14:283.1; 14:284.

⁷³ Me. Rev. Stat. tit. 25 § 4501.

⁷⁴ *Id.*

attorney for the appropriate jurisdiction for the deployment of an unmanned aerial vehicle for criminal investigation purposes; restrictions on image enhancing technology; procedures to limit exposure of third parties not under investigation and for destroying unnecessary audio or video recordings; recommended minimum altitudes and speeds for operation of unmanned aerial vehicles to minimize third party exposure; methods to minimize the number of vehicles deployed at one time or in the area during any one event; procedures for avoiding hazards to people or property; methods for tracking and recording flight; requirements for regular statistical reporting of flights including purpose, results, and duration to the appropriate government bodies; and accountability for mistake or misuse of unmanned aerial vehicles.⁷⁵

Unmanned aerial vehicles may not, unless permitted by exception or under the Constitution of Maine or United States Constitution, be used for criminal investigations without a warrant. However, apart from the aforementioned minimum regulations in place, law enforcement may use unmanned aerial vehicles for search and rescue operations, or to alleviate immediate danger to a person or for training exercises related to such uses. Law enforcement may also use unmanned aerial vehicles for purposes other than investigation of crime, such as aerial photography for accident assessment, forest fire, flood stages, and storm damage. In no instance may law enforcement use weaponized unmanned aerial vehicles. Law enforcement may not surveil private citizens exercising their constitutional rights of free speech and assembly. They may use unmanned aerial vehicles in emergency situations if approved by the chief administrative officer of the agency or Governor.⁷⁶

On or before July 1 of each year, beginning on July 1 of 2016, the Commissioner of Public Safety shall submit a report containing the number of deployments of unmanned aerial vehicles by law enforcement in the State. The report shall also contain a summary of the number of deployments for investigative purposes, the general nature of those investigations, and the number of search warrants sought as well as the

⁷⁵ *Id.*

⁷⁶ *Id.*

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number obtained for deploying unmanned aerial vehicles.⁷⁷

The Maine Department of Inland Fisheries & Wildlife has stated that an individual, while on the ground or in the air, may not use an unmanned aircraft system to aid or assist in hunting deer, bear, or moose. This would also prohibit individuals from attaching a loaded firearm or cross bow in or on the aircraft. Additionally, the Bureau of Parks and Lands has enacted regulation regarding the use of unmanned aircraft systems while on Maine State Park property. Generally, the use of unmanned aircraft systems is not allowed in “Maine State Parks, Historic Sites, or DACF [Department of Agriculture, Conservation and Forestry] Boat Launches” without the supervision of an authorized law enforcement agency or Special Activity Permit. Specifically, the Bureau has prohibited commercial use of drones and regulated law enforcement, state employee, and special activity use.⁷⁸

Under certain conditions, Maine law enforcement agencies may “provide oversight for search and rescue mission or training”. Law enforcement agencies may collaborate with outside agencies only if they are Federal Aviation Administration registered and the Bureau of Parks and Land is informed of and present during all Bureau of Parks and Lands unmanned aircraft system use. The law enforcement agency must also notify the Park, Regional, or central office of the Bureau regarding every mission either immediately or right before the beginning of it. Finally, the purpose of all unmanned aircraft system use must be “for search and rescue operations or training.”

State employees are allowed to use unmanned aircraft systems within their job duties and with the Bureau’s permission. Finally, if an individual, not covered by the aforementioned categories, wishes to fly an unmanned aircraft system in a Maine State Park she must apply for a Special Activity

⁷⁷ *Id.*

⁷⁸ Me. Rev. Stat. tit. 25 § 11216; Bureau of Parks and Lands, Maine State Park Policy, *Drones, Unmanned Aircraft System (UAS)*, <http://www.maine.gov/dacf/parks/docs/Drone-UAS-%20Policy.pdf> (last visited September 22, 2017); Dep’t of Inland Fisheries and Wildlife, *2017-18 Summary of Hunting Laws*, http://www.maine.gov/ifw/hunting_trapping/hunting/laws/pdfs/2017-2018huntinglaws.pdf (last visited September 22, 2017).

Permit.

Maryland

Maryland’s statewide drone statute establishes that any laws the State chooses to enact regarding the prohibition, restriction, or regulation of drone operation and testing will preempt any laws created by counties or municipalities on the same subject and trumps any law currently in existence. This means that state law will supersede any ordinances that local governments may enact or have previously enacted.⁷⁹

This statute defines “unmanned aircraft” as the flying portion of an “unmanned aircraft system,” flown by a pilot via a ground control system or autonomously through an onboard computer and any additional equipment necessary to operate safely. “Unmanned aircraft system” is defined as an unmanned aircraft and all of its associated equipment, data, and communications.⁸⁰

Massachusetts

Massachusetts regulations define the term “unmanned aerial vehicle” to mean “[a]n aircraft operated without the possibility of direct human intervention from within or on the aircraft.” The regulations include unmanned aerial vehicles in the general definition of “aircraft” in Massachusetts.⁸¹

This definition implies that any regulation applicable to manned aircraft in Massachusetts, generally, would apply to unmanned aerial vehicles. However, the only other specific reference to unmanned aerial vehicles in the state’s regulations is found in the Registration section. Under the Registration regulation, a Certificate of Authorization (“COA”) is defined as a valid license under Massachusetts law. It remains to be seen whether this regulation is subject to change due to the implementation of Part 107 at the federal level, as COAs are no longer specifically necessary for commercial flight.⁸²

⁷⁹ Md. Code Econ. Dev. § 14-301.

⁸⁰ *Id.*

⁸¹ 702 Mass. Code Regs. 2.01.

⁸² 702 Mass. Code Regs. 3.02

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Michigan

Michigan law prevents the “taking” of game or fish through the use of an “unmanned vehicle or unmanned device that uses aerodynamic forces to achieve flight [or an] unmanned vehicle or unmanned device that operates on the surface of water or underwater.” The state also prohibits using the same type of devices to hinder the taking of animals or fish.⁸³

In 2017, Michigan enacted the Unmanned Aircraft Systems Act. Michigan legislature defined an “unmanned aircraft” as an aircraft operated by a remote pilot. An “unmanned aircraft system,” was defined as an unmanned aircraft along with all “associated support, equipment, control station, data link, telemetry, communication, navigation equipment, and other equipment.”

The unmanned aircraft systems task force was created by this act to craft recommendations regarding the operation, use, and guidelines of unmanned aircraft. The task force is composed of individuals appointed by the governor from various agencies and interests groups, including the department of agriculture, department of corrections, and the unmanned aircraft systems manufacturing industry. The task force is responsible for holding public meetings to consider both commercial and private use of unmanned aircraft systems as well as the protection of public and private property interests. A report must then be submitted to the governor and standing committees in the house and senate for review.⁸⁴

The act details the applicable laws that should be followed by individuals operating unmanned aircraft systems. The act finds that unless it is expressly authorized by statute, it is unlawful for any political subdivision to promulgate rules, regulations, and ordinances, or participate in regulating the ownership or operation of unmanned aircraft system. This does not prohibit a political subdivision from promulgating rules or regulations for use of these devices by the political subdivision within the boundaries of said division however. Michigan defines a “political subdivision” as “a

⁸³ Mich. Comp. Laws §§ 324.40111c; 324.40112.

⁸⁴ Mich. Comp. Laws Ann. § 259.303; 259.305; 259.311; 259.313; 259.321; 259.322; 259.323; 259.331.

county, city, village, township, or other political subdivision, public corporation, authority, or district” in Michigan. The law clearly states that it does not apply to federal preemption of state law or to preempt other regulations, including the natural resources and environmental protection act.⁸⁵

The Unmanned Aircraft Systems Act places restrictions on the free use of unmanned aircraft systems through regulation. The act allows for an unmanned aircraft system to be utilized recreationally if the use complies with federal law. However, commercial use will only be allowed if the individual has been authorized by the Federal Aviation Administration to do so and such operation is in line with all federal laws.

The act provides for safeguards against possible community safety issues that arise. Use of an unmanned aircraft system may not interfere with the official duties of police officers, fire fighter, paramedics, or search and rescue personnel if the individual knowingly and intentionally operates their system in a manner than does so. The act also makes it unlawful for an individual to knowingly and intentionally operate the unmanned aircraft system for the purpose of harassing another individual or to invade another individual’s expectation of privacy. If an individual is limited by a restraining order or other judicial order, he or she cannot escape violation of such order by operating an unmanned aircraft system instead of initiating physical contact. Finally, an individual who is legally required to register as a sex offender shall not use an unmanned aircraft to “knowingly and intentionally follow, contract, or capture images of another individual” if her criminal sentence would not allow her do so otherwise. Violation of these community safety sections is a misdemeanor that carries a maximum possible penalty of imprisonment for 90 days and or a fine of no more than \$500. This does not prevent a government agency from being able to investigate or arrest and individual for any other violation of a Michigan law.

Minnesota

Minnesota has not passed a law addressing drone technology.

⁸⁵ *Id.*

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Mississippi

Mississippi addresses drones in its “voyeurism” statute. The statute states that using drones or other instrumentalities to spy on another person is a felony. Penalties range from up to five years for a person who was over the age of twenty-one at the time of the offense, to up to ten years when a person who was over the age of twenty-one at the time of the offense spied upon a child under the age of sixteen.⁸⁶

Missouri

Missouri law instructs the state Emergency Management Agency to establish an “emergency volunteer program” for disaster relief. This program is to allow volunteers to offer the use of their services and equipment – “either manned or unmanned” – as needed to assist the Agency. The regulation implementing the statute does not specifically reference unmanned systems.⁸⁷

Montana

Montana’s “drone law” addresses use of information gathered by a drone in legal proceedings. The statute determines that information from a drone is inadmissible as evidence in any proceeding unless the information was obtained pursuant to a search warrant or in accordance with judicially recognized exceptions to the warrant requirements. The statute also states that no drone-obtained information can be used in an affidavit of probable cause in an attempt to get a search warrant, unless that information was obtained through a previous search warrant or through the monitoring of public lands or international borders, or in accordance with the judicially recognized exceptions to warrant requirements.⁸⁸

The term “unmanned aerial vehicle” is used in the statute to describe a drone. “Unmanned aerial vehicle” is defined as an aircraft that is operated without direct human intervention from on or within the aircraft. The statute specifically excludes satellites from that definition.

Montana law also provides that a law enforcement agency, or a law

⁸⁶ Miss. Code § 97-29-61.

⁸⁷ Mo. Rev. Stat. § 44.023; Mo. Code Regs. tit. 11, § 10-11.120.

⁸⁸ Mont. Code § 46-5-109.

enforcement service provided by a local government, may not receive drones that are armored, weaponized, or both, from a military equipment surplus program operated by the federal government. Law enforcement may purchase property from a military equipment surplus program, but the agency may only use state or local funds for the purchase. Federal funds may not be used to purchase property from a military equipment surplus program.⁸⁹

In February of 2017 a state bill was proposed that would provide civil liability for unmanned aerial vehicle trespass. The bill would have created a civil penalty for anyone who flew an unmanned aerial system over private property below 500 feet. Senate Bill 170 died in the Senate process in April. No plans have been announced to reintroduce the bill in the next state legislative session.

Nebraska

Nebraska has not passed a law addressing drone technology.

Nevada

Nevada includes the term “unmanned aerial vehicle” in its general definition of aircraft. The term “unmanned aerial vehicle” is also independently defined as “a powered aircraft of any size without a human operator aboard the vehicle and that is operated remotely or autonomously.”⁹⁰

Unmanned aerial vehicles are subject to restrictions while the aircraft is in flight over heavily populated areas or public gatherings. Except for during landing and take-off, unmanned aerial vehicles may not fly at such a low level as to endanger people on the surface beneath. The statute also provides the requisite mens rea for individuals who perform acrobatic or flying tricks, or drops objects from the vehicle. A vehicle operated in a park is not subject to the dangerous flying penalty unless the pilot is operating the vehicle in a reckless manner or with willful indifference to injuries that could probably result. Violation of this statute is classified as a

⁸⁹ Mont. Code § 7-32-401.

⁹⁰ Nev. Rev. Stat. §§ 360.753(12)(a), 493.020.

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misdemeanor offense.⁹¹

Nevada also has an anti-trespass statute specifically aimed at unmanned aerial vehicles. The statute creates a cause of action for property owners against unmanned aerial vehicle owners or operators who have flown their vehicles less than 250 feet above the property, if the operator has flown it over the property at such a height on at least one previous occasion and the property owner has notified the unmanned aerial vehicle owner or operator that he or she was not authorized to fly over the property at such a height. Successful trespass lawsuits against unmanned aerial vehicle owners or operators may be compensated by treble damages for any injury to the plaintiff or real property as a result of the trespass. The plaintiff may also receive reasonable attorneys' fees. Property owners may not sue if the unmanned aerial vehicle is lawfully flown over their property below 250 feet. Lawful purposes for such flights include unmanned aerial vehicles in the process of taking off or landing; being lawfully in the flight path for landing at an airport, airfield, or runway; lawful operation by a law enforcement agency or a public agency; or lawful operation by a business registered by the state or a land surveyor if the operator is licensed or approved by the FAA, the unmanned aerial vehicle is being lawfully operated within the scope of activities of the operator, and the operation of the vehicle does not unreasonably interfere with the existing use of the real property.⁹²

Weaponizing unmanned aerial vehicles and operation of such weaponized vehicles is prohibited. Violation of this statute is considered a category D felony, punishable by a minimum term of not less than 1 year and a maximum term of not more than 4 years imprisonment, as well as a maximum possible fine of \$5,000, unless a greater fine is authorized or required by statute. Discharging a weapon attached to a weaponized drone is considered a category C felony, punishable by a minimum term of not less than 1 year and a maximum term of not more than 5 years imprisonment, as well as a maximum possible fine of \$10,000, unless a greater fine is authorized or required by statute.⁹³

⁹¹ Nev. Rev. Stat. § 493.100.

⁹² Nev. Rev. Stat. § 493.103.

⁹³ Nev. Rev. Stat. § 493.106.

The statutes also place zone restrictions on vehicle operations. Unmanned aerial vehicle operation within a horizontal distance of 500 feet or a vertical distance of 250 feet from a critical facility, without consent from the facility owner, is prohibited. A “critical facility” is defined by section 493.020(2) to include petroleum refineries, chemical facilities, pipelines, wastewater facilities, water treatment facilities, power plants or generating stations, electric utility transmission lines, and jail or detention facilities. Unless consent is obtained from the airport authority or operator of the airport, or the person is otherwise authorized by the FAA or through waiver or exception, an operator cannot fly an unmanned aerial vehicle within 5 miles of an airport. A person who violates this statute is guilty of a misdemeanor.⁹⁴

Law enforcement agencies may operate unmanned aerial vehicles without state-level restriction, unless they are surveilling a person when that person has a reasonable expectation of privacy. Any information acquired by a law enforcement agency in violation of this statute may not be admissible and must not be disclosed in any adjudicatory proceeding. Furthermore, such information may not be used as a basis of reasonable suspicion or probable cause for investigating or prosecuting a crime.⁹⁵

Unmanned aerial vehicles may be used for surveillance if law enforcement has a valid warrant specifying the period of time that the vehicle is authorized to be used, not to exceed 10 days. Exceptions to the warrant requirement include when there is probable cause to believe that a person has committed a crime, is committing a crime, or is about to commit a crime; if exigent circumstances make it unreasonable for law enforcement to obtain a warrant authorizing a search; if the law enforcement agency has written consent from the person or real property owner to be searched (a time place and manner for the search must be specified in writing); for the purpose of conducting search and rescue operations; under circumstances of imminent threats, including terrorism (documentation of factual basis for this belief shall be submitted to a court of competent jurisdiction no more than two business days after initiating

⁹⁴ Nev. Rev. Stat. § 493.109.

⁹⁵ Nev. Rev. Stat. § 493.112.

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the operation); upon declaration of state emergency or disaster by the Governor, so long as use is restricted to the geographic area of the declared emergency and it does not exceed the purposes of preserving public safety, protection of property, or evaluation of damage or contamination.

The Department of Public Safety is required by statute to maintain a registry of public agencies' use of unmanned aerial vehicles. Department official must create a website containing the information that agencies are required to submit to it, including: the name of the public agency; the name and contact information of each operator of the unmanned aerial vehicle; sufficient information to identify the vehicle; and a statement describing the use of the vehicle by the agency. The Department is to compile this information in the form of a report to submit to the director of the Legislative Counsel Bureau for submission to the legislature or Legislative Commission on or before February 1 of each year. The Department shall adopt regulations prescribing agency use of unmanned aerial vehicles, including for the provision of fire services, emergency medical services, protection of a critical facility that is public property, and search and rescue operations for people or property in distress.⁹⁶

Public agencies may operate unmanned aerial vehicles only if, prior to such operation, the agency registers it with the Department. The agency must operate the vehicle in accordance with the applicable state regulations. Any information acquired by an agency in violation of this statute may not be admissible and must not be disclosed in any adjudicatory proceeding. Such information may not be used as a basis of reasonable suspicion or probable cause for investigating or prosecuting a crime or offense.⁹⁷

Finally, Nevada places restrictions on vehicle use when under the influence of drugs or alcohol. Operation of a vehicle while under the influence of intoxicating liquor or controlled substances is a gross misdemeanor. An exception to the "controlled substances" rule is provided for ingestion of controlled substances in accordance with a lawfully issued prescription. Furthermore, a person operating an unmanned aerial vehicle carelessly or recklessly so as to endanger the life or property of another is

⁹⁶ Nev. Rev. Stat. § 493.118.

⁹⁷ Nev. Rev. Stat. § 493.115.

subject to the penalties of this provision. The court in determining whether such conduct was careless or reckless, should consider the standards for safe operations of aircraft as prescribed by federal statutes or governing regulations.⁹⁸

New Hampshire

New Hampshire prohibits the use of a “drone” or “unmanned aerial vehicle” (UAV) to obstruct or impede persons engaged in “the lawful activity of hunting, fishing or trapping.” Drones cannot be used to purposefully engage in an activity that would “tend to disturb wild animals” to prevent them from being taken. Drones cannot be used to conduct video surveillance hunting, fishing, or trapping without the written consent of the persons being surveilled. This set of prohibitions does not apply to law enforcement officers or personnel from the Department of Fish and Game when they are performing their official duties.⁹⁹

For purposes of the statute, “unmanned aerial vehicle” is defined as “any device capable of flying in the air which is remotely, automatically, or otherwise piloted without an occupant.” The definition specifically includes drones.¹⁰⁰

New Hampshire has also passed regulations forbidding the use of UAVs to locate wildlife for the purpose of taking it, using UAVs to communicate the location of wildlife to a person on the ground, drive or harass any wildlife or otherwise aid or assist in taking wildlife. Again, this regulation does not apply to law enforcement officers and personnel of the fish and game department in performing their official duties.¹⁰¹

New Jersey

New Jersey has not passed a law addressing drone technology.

The New Jersey Department of Environmental Protection Division of Parks and Forestry has created a policy addressing the use of “Unmanned

⁹⁸ Nev. Rev. Stat. § 493.130.

⁹⁹ N.H. Rev. Stat. § 207:57.

¹⁰⁰ *Id.*

¹⁰¹ N.H. Code Admin. R. Fis 312.02

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Aerial Vehicles” in state parks. For the purposes of the policy and Unmanned Aerial Vehicle is an aircraft without a human pilot aboard. The policy states that use of these vehicles is specifically prohibited within all lands and waters administered by the State Park Services unless specifically given approval by the Assistant Director of State Park Services. Permission may be requested by agencies, such as law enforcement and search and rescue personnel, for purposes of training or reconnaissance. Employees or officials of the State Park Services may request permission so long as the vehicle will be utilized for appropriate official use.¹⁰²

New Mexico

The New Mexico Department of Game and Fish has established regulations addressing the use of drones in hunting and fishing. The regulations define a drone as, “any device used or designed for navigation or flight in the air that is unmanned and guided remotely or by an onboard computer or onboard control system. Drones may also be referred to as “Unmanned Aerial Vehicle (UAV)” or “Unmanned Aerial Vehicle Systems (UAVS).”¹⁰³

The regulations forbid using a drone to harass, pursue, harrÿ, drive, spot, locate, or rally any protected species. It is also unlawful to use a drone to assist in the locating or taking of any protected species. However, “[t]he Director may exempt a person from the prohibition of utilizing an aircraft, drone or vehicle for management purposes.”¹⁰⁴

Violation of any of the outlawed activities will result in a “penalty assessment,” where the Director of the Department of Game and Fish may impose a fine that is to be determined by the type of animal and the amount of it caught or harassed with the drone.

¹⁰² Policy, New Jersey Dep’t of Env’t Prot. Div. of Parks and Forestry State Park Serv. (Jul. 8, 2015) http://www.state.nj.us/dep/parksandforests/parks/docs/policy_2.38_unmanned_aerial_vehicles-drones.pdf.

¹⁰³ N.M. Code R. § 19.31.10.7(Z).

¹⁰⁴ N.M. Code R. § 19.31.10.13(K).

New York

New York’s current statutory law only addresses drones in the context of its tax code. The statutes provide for drones in its list of sales tax and compensating use tax exemptions.¹⁰⁵

North Carolina

North Carolina statute defines unmanned aircraft as “[A]ny contrivance ... used or designed for navigation of or flight in the air ... that is operated without the possibility of human intervention from within or on the aircraft and that does not meet the definition of model aircraft.¹⁰⁶ Crimes committed by use of an unmanned aircraft system, while in flight over the State, will be governed by North Carolina law and whether the conduct constitutes a crime is also determined by state law.¹⁰⁷

The statute prohibits the use of an unmanned aircraft system by any person, entity, or state agency to conduct surveillance of a person, their dwelling, or private real property without their consent. It also prohibits the use of unmanned aircraft systems to photograph an individual, without that person’s consent, for the purpose of publishing or public disseminating the photo. Though consent may not be necessary when photographing a newsworthy event or in places where the general public is invited. This statute creates a civil cause of action for violations. In lieu of damages, a victim may elect to recover \$5,000 for each photograph or video that is published or disseminated, as well as reasonable costs and attorneys’ fees and injunctive or other relief as determined by the court.

Finally, a law enforcement exception is created to the general prohibitions listed above. The exceptions allow law enforcement agencies or a political subdivision of the State to use unmanned aircraft to:

- (1) Counter a high risk of a terrorist attack if it is determined by the

¹⁰⁵ N.Y. Tax Law § 1115 (“For purposes of this subdivision [concerning exemptions from sales and use taxes], ‘general aviation aircraft’ means an aircraft that is used in civil aviation, that is not a commercial aircraft as defined in paragraph seventeen of subdivision (b) of section eleven hundred one of this article, military aircraft, unmanned aerial vehicle or drone.”).

¹⁰⁶ N.C. Gen. Stat. § 15A-300.1; N.C. Gen. Stat. § 63-1.

¹⁰⁷ N.C. Gen. Stat. § 14-7.45.

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U.S. Secretary of Homeland Security or the Secretary of the N.C. Department of Public Safety determines that credible intelligence indicates a risk exists,

(2) Conduct surveillance in an area within the law enforcement officer's plain view when the officer has a legal right to be in that location,

(3) If a search warrant authorizing the use of a drone has been obtained,

(4) If the agency possesses reasonable suspicion that swift action is needed to prevent danger or damage to property, prevent the escape of a suspect or destruction of evidence, search for a missing person, or pursue an escapee or suspect, and

(5) Photograph gatherings to which the general public is invited.

This law also restricts commercial and private drone systems that are equipped with infrared or other thermal imaging technology to be used for the sole purposes of scientific investigation, scientific research, mapping or evaluating the earth's surface, farming operations, forest management, and other similar investigations of vegetation or wildlife.

A separate statute provides that unmanned aircraft may not be launched or recovered from any State or private property without consent. Local governments may adopt an ordinance to regulate the launch and recovery of unmanned aircraft systems on local government property.¹⁰⁸

North Carolina has empowered its Division of Aviation to develop and implement a knowledge test for operating an unmanned aircraft system. The test will ensure that an operator is knowledgeable of State statutes and regulations that apply to drone operation. Commercial and Government operators must pass the knowledge test.¹⁰⁹ Additionally, the Division of Aviation of the Department of Transportation is to develop and administer a program that complies with all applicable federal regulations for issuing commercial use permits to unmanned aircraft system operators. The permit will be effective for up to eight years. Operation of a commercial unmanned

¹⁰⁸ N.C. Gen. Stat. § 15A-300.2.

¹⁰⁹ N.C. Gen. Stat. § 63-95.

aircraft system without a permit is a Class 1 misdemeanor.¹¹⁰

It is a Class H felony to willfully damage, disrupt the operation of, or otherwise interfere with a manned aircraft through the use of an unmanned aircraft while the manned aircraft is taking off, landing, in flight, or otherwise in motion.¹¹¹

It is a Class E felony to possess or use an unmanned aircraft that has a weapon attached. It is a Class 1 misdemeanor to fish or to hunt using an unmanned aircraft system.¹¹²

It is a Class A1 misdemeanor to publish or disseminate images taken through the use of infrared or other thermal imaging technology attached to an unmanned aircraft system revealing individuals, materials, or activities inside of a structure without the consent of the property owner.¹¹³

Using an unmanned aircraft system to intentionally interfere with the lawful taking of wildlife resources or to drive, harass, or intentionally disturb any wildlife resource for the purpose of disrupting the lawful taking of wildlife resources or to abuse property, equipment, or hunting dogs that are being used for the lawful taking of wildlife resources is a Class 1 misdemeanor for a first conviction and a Class 2 misdemeanor for subsequent convictions.¹¹⁴

North Dakota

North Dakota broadly defines drones as “unmanned aerial vehicles.” This term means any aerial vehicle, other than a satellite, that is operated without the possibility of direct human intervention within or on the aerial vehicle.¹¹⁵

North Dakota does not allow law enforcement to use a drone to

¹¹⁰ N.C. Gen. Stat. § 63-96.

¹¹¹ N.C. Gen. Stat. § 14-280.3.

¹¹² N.C. Gen. Stat. § 14-401.24.

¹¹³ N.C. Gen. Stat. § 14-401.25.

¹¹⁴ N.C. Gen. Stat. § 113-295.

¹¹⁵ N.D. Cent. Code §§ 29-29.4-01 – 29-29.4-06.

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obtain information unless the information is obtained under a warrant, in the use of monitoring public lands or international borders, during an environmental catastrophe, for research purposes, or under exigent circumstances. “Exigent circumstances” is defined as a reasonable suspicion that swift action is needed to avoid imminent danger to life or bodily harm.

Information obtained while using a drone cannot be used to obtain a search warrant unless the information was obtained through the monitoring of public lands or international borders.

In order to operate with a warrant, the warrant must state: “1. The persons that will have the power to authorize the use of the unmanned aerial vehicle; 2. The locations in which the unmanned aerial vehicle system will operate; 3. The maximum period for which the unmanned aerial vehicle system will operate in each flight; and 4. Whether the unmanned aerial vehicle system will collect information or data about individuals or groups of individuals.”

If the drone is used to collect information about individuals or groups, the warrant must include; the circumstances under which the drone will be used, the specific kinds of information or data the unmanned aerial vehicle system will collect, and how that information, as well as conclusions drawn from that information, will be used, disclosed, and otherwise handled. The warrant must also indicate the period for which the information about individuals or groups will be kept, and whether the information will be destroyed. If the information is to be destroyed, the warrant must indicate when and how the information will be destroyed.

When legally operating a drone for surveillance, the operator or person authorized to conduct the surveillance must document the use with a flight plan. The flight plan must include the duration, flight path, and mission objectives of the drone surveillance. In addition, the flight plan must be saved for five years following the surveillance, and the operator or person authorized to conduct the surveillance is not allowed to keep any images that may contain a crime for longer than 90 days.

Outside of law enforcement, the statute prohibits the domestic use of

drones for private surveillance, and forbids any agency from granting permission for such use. Also, surveillance of one's lawful exercise of constitutional rights is prohibited. Finally, law enforcement agencies cannot authorize the use of drones armed with any lethal weapons.

Ohio

In 2014, Ohio created an aerospace and aviation technology committee. The legislation that established this committee is the only Ohio law that addresses the use of drones. The committee's duties include the promotion of research and development in the aviation, aerospace, and technology industry, "including research and development of unmanned aerial vehicles."¹¹⁶

Oklahoma

Oklahoma has passed legislation prohibiting intentionally or knowingly operating an unmanned aircraft within 400 feet of a critical infrastructure facility or within any range which would interfere with the operations of or cause a disturbance at said facility. Such facilities include, among others, water treatment facilities, dams regulated by the state or federal governments, and cell towers. The statute defines "unmanned aircraft" as "an aircraft without occupants that is flown by a pilot via a ground control system or autonomously through use of an onboard computer and other additional equipment necessary to operate the aircraft." The statute explicitly includes drones in the definition.¹¹⁷

This section does not apply to flights by the government, law enforcement, an owner or operator of said facility, a person with prior written consent of the owner or operator, the owner of the property on which the facility is located, an operator engaged in commercial purposes authorized by the FAA, or someone acting under the direction of the government, law enforcement, or the owner of said facility. Any person in violation of this section may be civilly liable for damage to the facility, including, but not limited to damage to property, the environment, or human health.¹¹⁸

¹¹⁶ Ohio Rev. Code § 122.98.

¹¹⁷ Okla. Stat. tit. 3, § 322.

¹¹⁸ *Id.*

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Oregon

Oregon law provides that an “unmanned aircraft system” is an “unmanned flying machine, commonly known as a drone, and its associated elements, including communication links and the components that control the machine.” A person commits an invasion of personal privacy in the second degree if they use of an unmanned aircraft system to make or record a photograph, motion picture, videotape or other visual recording.¹¹⁹ Oregon’s drone laws focuses primarily on what law enforcement, government entities, and armed forces can and cannot do with drones.¹²⁰

Oregon statutes forbid any person from flying a drone over another’s property multiple times, as long as the drone has been flown over the property at least once and the property owner notified the drone operator or owner that they did not want the drone flown over property. However, the property owner has no cause of action if the drone is taking off or landing, or is lawfully in the flight path of an airport or runway. If the property owner brings a cause of action and prevails, they may recover treble damages and attorneys’ fees.¹²¹

In Oregon, it is a Class A misdemeanor if a person possesses or controls a drone and recklessly causes it to: 1) direct a laser at an airborne aircraft, 2) crash into an airborne aircraft, or 3) prevent the takeoff or landing of an aircraft.¹²²

Oregon law enforcement may only use a drone under one or more of the following circumstances: they obtain a written warrant that specifies the period of use of the drone which cannot exceed 30 days, they reasonably believe that exigent circumstances exist in the commission of a crime making it unreasonable to wait for a warrant, they have written consent from the individual whose property is being searched, they are using the drone solely for training purposes, or if they intend to use the drone to

¹¹⁹ Or. Rev. Stat. §§ 163.700.

¹²⁰ Or. Rev. Stat. §§ 837.300 – 390.

¹²¹ Or. Rev. Stat. §§ 837.365, 837.380, 161.015.

¹²² Or. Laws 2016 Ch. 72, § 5.

conduct search and rescue operations during a time of emergency.¹²³

Oregon requires all state, local, and special government entities that are flying drones to first register with the Oregon Department of Aviation. If an individual flies a drone without registering it, the Department can impose a fine of up to \$10,000. Any evidence obtained through the use of an unregistered drone cannot be used in any judicial or administrative proceeding and cannot be used to establish reasonable suspicion or probable cause.¹²⁴ A violation of any public body registration provision may result in a civil penalty of up to \$10,000.¹²⁵

In order for a government entity to register a drone they must provide: “[t]he name of the public body that owns or operates the unmanned aircraft system,” “[t]he name and contact information of the individuals who operate the unmanned aircraft system,” and “[i]dentifying information for the unmanned aircraft system as required by the department by rule.” Additionally, if the governmental entity registers drone(s), they must also provide an annual report to the Oregon Department of Aviation detailing how frequently the drones were used and for what purpose during the preceding calendar year.¹²⁶

Unless expressly authorized by state statute, Oregon’s state drone law pre-empts all local drone regulations.¹²⁷ Sections 837.300 to 837.995 of Oregon Statutes do not apply to the United States Armed Forces. Additionally, section 11, chapter 686, Oregon Laws 2013 does not apply to the United States Armed Forces.¹²⁸

Pennsylvania

While Pennsylvania has not passed a comprehensive drone law, it has addressed drones in a regulation relating to state game lands. The regulation prohibits the operation, control, retrieval, or launch of an “unmanned aerial vehicle of any size, design or specification” on or from State game lands.

¹²³ Or. Rev. Stat. §§ 837.310 – 345.

¹²⁴ Or. Rev. Stat. § 837.360.

¹²⁵ Or. Admin. R. 738-140-0025.

¹²⁶ Or. Rev. Stat. § 837.360.

¹²⁷ Or. Rev. Stat. § 837.385.

¹²⁸ Or. Rev. Stat. § 837.390.

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The regulation is not meant to limit law enforcement response to emergency matters, or engagement in government functions.¹²⁹

Rhode Island

Rhode Island has passed legislation granting the state and the Rhode Island Airport Corporation exclusive authority, subject to federal law, to regulate any object capable of flying, which is remotely controlled, or which flies autonomously through the use of GPS.¹³⁰

Neither pilot's license nor federal registration requirements are imposed on the operation of "model aircraft" within the state.¹³¹

South Carolina

South Carolina has not passed a law addressing drone technology.

South Dakota

In South Dakota, Chapter 50-15 regulates the use of drones. This Chapter defines a drone as "a powered, aerial vehicle that does not carry a human operator, uses aerodynamic forces to provide vehicle lift, and can fly autonomously or be piloted remotely. The vehicle may be expendable or recoverable."¹³²

A person commits a Class 1 misdemeanor if they operate a drone "over the grounds of a prison, correctional facility, jail, juvenile detention facility, or any military facility unless expressly authorized by the administrator thereof."¹³³ A person is guilty of a Class 6 felony in addition to the penalty for the principal offense if they use "a drone to deliver contraband or controlled substances to a state prison or other correctional facility."¹³⁴

Any drone operating under the authority of the Armed Forces of the

¹²⁹ 58 Pa. Code § 135.41(c)(23).

¹³⁰ R.I. Gen. Laws § 1-8-1.

¹³¹ R.I. Gen. Laws § 1-4-5, R.I. Gen. Laws § 1-4-4.

¹³² S.D. Laws § 50-15-1.

¹³³ S.D. Laws § 50-15-3.

¹³⁴ S.D. Laws § 50-15-4.

United States, including the National Guard, is exempt from this Chapter. ¹³⁵ In addition to complying with South Dakota law, a drone operator must comply with all applicable federal aviation administration requirements. South Dakota law exempts unmanned aircraft systems from the requirement to be registered as aircraft. ¹³⁶

Under Chapter 22-21, a person is guilty of a class 1 misdemeanor if they intentionally use “a drone to photograph, record, or otherwise observe another person in a private place where the person has a reasonable expectation of privacy; or lands a drone on the lands or waters of another resident provided the resident owns the land beneath the water body in its entirety without the owner's consent, except in the case of forced landing and the owner or lessee of the drone will be liable for any damage resulting from a forced landing.” These restrictions do not apply to a drone operator operating a drone for commercial or agricultural purposes pursuant to or in compliance with federal aviation administration regulations, authorizations, and exemptions nor do they apply to an emergency management worker operating a drone within the scope of the worker's duties.

Tennessee

The Tennessee Freedom from Unwanted Surveillance Act defines a “drone” as “a powered, aerial vehicle” that (1) does not carry a human operator and cannot be operated by a human from within or on the aircraft; (2) uses aerodynamic forces for lift; (3) can be piloted remotely or fly autonomously; and (4) can be recoverable or expendable. “Law enforcement agency” refers to an agency that is responsible for preventing and detecting crime, for enforcing local government code, and for enforcing “penal, traffic, regulatory, game, or controlled substance laws.”¹³⁷

The statute generally prohibits drone use by a law enforcement agency to gather evidence or other information. Following the general prohibition, the statute prescribes exceptions by which drone use is permissible. Namely, the statute allows use of a drone (1) to counter a high risk of a terrorist attack by a specific individual or organization if the United States

¹³⁵ S.D. Laws § 50-15-2.

¹³⁶ S.D. Laws § 50-11-9.1.

¹³⁷ Tenn. Code § 39-13-609.

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secretary of homeland security determines that credible intelligence indicates that there is such a risk; (2) if the law enforcement agency first obtains a search warrant signed by a judge authorizing its use; (3) if the law enforcement agency possesses reasonable suspicion that, under particular circumstances, swift action is needed to prevent imminent danger to life; (4) to provide continuous aerial coverage when law enforcement is searching for a fugitive or escapee or is monitoring a hostage situation; or (5) to provide more expansive aerial coverage when deployed for the purpose of searching for a missing person.

An agency must delete data it collects on individuals, homes, or areas other than those it targeted in a justified drone deployment as soon as possible, and never more than 24 hours after collecting it. If a law enforcement agency violates the general prohibition of using drones to gather evidence or other information, the aggrieved party may sue to obtain appropriate relief, the form of which is unspecified by statute but is to be determined by the court.

The statute defines the use of a drone to gather evidence or information as constituting a search. Use of such devices falls within the purview of the Fourth Amendment of the United States Constitution, as well as Article I, § 7, of the Constitution of Tennessee. The Tennessee statute provides that, “[a]bsent exigent circumstances or another authorized exception to the warrant requirement,” evidence gathered in violation of this statute is not admissible in a criminal prosecution in any Tennessee state court.

In 2014, the Tennessee General Assembly enacted a chapter concerning “Surveillance by Unmanned Aircraft” as part of the Tennessee Code’s Criminal Offenses Title. It first defines “images” broadly, including “any capturing of sound waves, thermal, infrared, ultraviolet, visible light, or other electromagnetic waves, odor, or other conditions existing on or about real property in this state or an individual located on that property.” The definition of “unmanned aircraft” is broad, including any “airborne device that is operated without an individual in or on the device.”

The statute provides a list of circumstances under which using

“unmanned aircraft” to capture images is legal. In doing so, the chapter suggests such usage of drones is generally prohibited; however, the list’s extensiveness suggests a wide degree of tolerance regardless. Namely, it is legal to capture an image using a drone in any of the following circumstances: (1) for purposes of professional or scholarly research and development by a person acting on behalf of an institution of higher education; (2) in airspace designated as a test site or range authorized by the Federal Aviation Administration for the purpose of integrating unmanned aircraft systems into the national airspace; (3) as part of an operation, exercise, or mission of any branch of the United States military, as long as it complies with the United States Constitution; (4) if the image is captured by a satellite for the purposes of mapping; (5) if the image is captured by or for an electric or natural gas utility for one of several listed purposes; (6) with the consent of the individual who owns or lawfully occupies the real property captured in the image; (7) “for law enforcement purposes,” as defined by another statute, (*see* Tenn. Code 39-13-609); (8) if the image is captured by state law enforcement authorities, or a person who is under contract with or otherwise acting under the direction or on behalf of state authorities to survey a catastrophe or determine whether a state of emergency should be declared, to preserve public safety or protect property or survey damage or contamination during a lawfully declared state of emergency, or to conduct routine air quality sampling and monitoring; (9) at the scene of a spill, or a suspected spill, of hazardous materials; (10) for the purpose of fire suppression; (11) for the purpose of rescuing a person whose life or well-being is in imminent danger; (12) if the image is captured by a Tennessee licensed real estate broker in connection with the marketing, sale, or financing of real property, provided no individual can be identified in the image; (13) if the image is of real property or a person on that property; (14) if the image is captured by the owner or operator of an oil, gas, water, or other pipeline for the purpose of inspecting, maintaining, or repairing pipelines or other related facilities, and is captured without the intent to conduct surveillance on an individual or real property located in Tennessee; (15) in connection with oil and gas pipeline and well safety and protection; (16) in connection with port authority surveillance and security; (17) as authorized or permitted by the Federal Aviation Administration for use in a motion picture, television or similar production where the filming is authorized by the property owner and a state or local film permit agency, if

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necessary; (18) as a part of a commercial service that has received authorization from the federal aviation administration to use unmanned aircraft or an unmanned aircraft operating under regulations promulgated by the federal aviation administration for commercial use of unmanned aircraft; (19) when an image is “captured by a state or local government agency, or by a person who is under contract with or otherwise acting under the direction or on behalf of such agency, [it] shall be handled in accordance with § 39-13-609 and shall not be used for any purpose other than the lawful purpose for which the image was captured as permitted by this section.” A recent amendment to the statute provides that it is legal to use drones to capture images in land surveying; by the department of transportation; or photogrammetric mapping.¹³⁸

The statutes create a Class C misdemeanor if drones are used to capture images if one does any of the following: (1) uses an unmanned aircraft to capture an image of an individual or privately owned real property in Tennessee with the intent to conduct surveillance on the individual or property captured in the image; (2) knowingly uses an image captured for law enforcement purposes by a state or local law enforcement agency, or by a person who is under contract with or otherwise acting under the direction of or on behalf of such agency; (3) uses an unmanned aircraft to intentionally capture an image of an individual or event at an open-air event venue wherein more than one hundred individuals are gathered for a ticketed event, provided there is no consent from the venue owner or operator; (4) knowingly uses an unmanned aircraft within or over a designated fireworks discharge site, fireworks display site, or fireworks fallout area during an event, subject to provided definitions of “discharge site,” “display site,” and “fallout area”; or (5) knowingly uses an unmanned aircraft over the grounds of a correctional facility; (6) knowingly uses an unmanned aircraft within two hundred fifty feet of the perimeter of any critical infrastructure facility without the business operator's written consent for the purpose of conducting surveillance of, gathering evidence or collecting information about, or photographically or electronically recording, critical infrastructure data. For any of these situations, it is a defense if one destroyed the image as soon as he or she had knowledge that it was prohibited by this section and “without disclosing, displaying, or

¹³⁸ Tenn. Code §§ 39-13-901, 39-13-902.

distributing the image to a third party.”¹³⁹

The statutes create a Class C misdemeanor offense when a person possesses an image in violation of the law, and, a Class B misdemeanor when one “discloses, displays, distributes, or otherwise uses that image.” Each image creates a separate offense. The section concludes by listing two separate defenses to these charges: (1) that one destroyed the image as soon as he or she had knowledge it was captured illegally or (2) that one “stopped disclosing, displaying, distributing, or otherwise using the image” as soon as he or she had knowledge it was captured illegally.¹⁴⁰

The next section discusses evidentiary issues that might arise from images illegally acquired with unmanned aircraft, or legally acquired but incidental to the capturing of an image. In these circumstances, such images may not be used as evidence in any criminal or juvenile proceeding, civil action, or administrative proceeding. Furthermore, they are not subject to disclosure, inspection, or copying under title 10, chapter 7, and are not subject to discovery, subpoena, or other means of legal compulsion for their release. An exception arises when images are used as evidence to prove violations of the statutes, provided they are “subject to discovery, subpoena, or other means of legal compulsion.”¹⁴¹

The above rules do not apply to the manufacture, assembly, distribution, or sale of unmanned aircraft, nor shall they be construed as permitting any act prohibited by other law.¹⁴²

An additional criminal statute includes the use of drones in Tennessee’s definition of burglary. For the purposes of the section, “enter” means an intrusion of the entire body or when a person causes an unmanned aircraft to enter that portion of the airspace above the owner’s land not regulated as navigable airspace by the Federal Aviation Administration.¹⁴³

¹³⁹ Tenn. Code § 39-13-903.

¹⁴⁰ Tenn. Code § 39-13-904.

¹⁴¹ Tenn. Code § 39-13-905.

¹⁴² Tenn. Code § 39-13-906, 39-13-907.

¹⁴³ Tenn. Code § 39-14-405.

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The Tennessee Hunter Protection Act concerns the use of drones to interfere with a lawful exercise of taking wildlife. For the purposes of the statute, “drone” has the same meaning prescribed above by section 39-13-609. The statute creates a Class C misdemeanor for using a drone with the intent to conduct video surveillance of private citizens who are lawfully hunting or fishing without obtaining the written consent of the persons being surveilled prior to conducting the surveillance.¹⁴⁴

People affected by such conduct or reasonably susceptible to being affected may seek an injunction, which, in turn, may be granted upon a showing that a particular conduct is threatened or that it has occurred on a particular premises in the past and that it is not unreasonable to expect that under similar circumstances it will be repeated. Alternatively, an adversely affected person might seek damages, including punitive damages. These damages might also include, in addition to other special damage, expenditures of the affected person for license and permit fees, travel, guides, special equipment and supplies, to the extent that such expenditures were rendered futile by prevention of the taking of a wild animal.¹⁴⁵

Texas

Chapter 423 of the Texas Government Code, titled “Use of Unmanned Aircraft,” concerns the legality of using “unmanned aircraft” to capture images of people or private property, as well as evidentiary issues and civil liability that might ensue from them. It first defines “images” broadly, including “any capturing of sound waves, thermal, infrared, ultraviolet, visible light, or other electromagnetic waves, odor, or other conditions existing on or about real property in this state or an individual located on that property.” Next, it provides a list of circumstances under which using “unmanned aircraft” to capture them is legal.¹⁴⁶

The statute provides that it is legal to capture an image using a drone in any of the following circumstances: (1) “for the purpose of professional or scholarly research and development or for another academic purpose by

¹⁴⁴ Tenn. Code §§ 70-4-301, 70-4-302.

¹⁴⁵ Tenn. Code § 70-4-303.

¹⁴⁶ Tex. Gov’t Code §§ 423.001, 423.002.

a person acting on behalf of an institution of higher education”; (2) “in airspace designated as a test site or range authorized by the Federal Aviation Administration for the purpose of integrating unmanned aircraft systems into the national airspace”; (3) “as part of an operation, exercise or mission of any branch of the United States military”; (4) “if the image is captured by a satellite for the purposes of mapping”; (5) “if the image is captured by or for an electric or natural gas utility or a telecommunications provider” for express purposes; (6) “with the consent of the individual who owns or lawfully occupies the real property captured in the image”; (7) “pursuant to a valid search or arrest warrant”; (8) “if the image is captured by a law enforcement authority or a person who is under contract with or otherwise acting under the direction or on behalf of a law enforcement authority” in “immediate pursuit” of a suspect upon probable cause, to document a crime scene, to investigate a scene of death or serious motor vehicle accident, to search for a missing person, to conduct a high-risk tactical operation; of private property that is generally open to the public where property owner provides consent to law enforcement public safety responsibilities; or of real property or a person on real property that is within 25 miles of the United States border for the sole purpose of ensuring border security; (9) for the same law enforcement authority designated above, except for the purposes of surveying a catastrophe, preserving public safety and protecting property, surveying during a declared state of emergency, or conducting routine air quality monitoring; (10) “at the scene of a spill, or a suspected spill, of hazardous materials”; (11) “for the purpose of fire suppression”; (12) “for the purpose of rescuing a person whose life or well-being is in imminent danger”; (13) “if the image is captured by a Texas licensed real estate broker in connection with the marketing, sale, or financing of real property,” provided no individual can be identified in the image; (14) “from a height no more than eight feet above ground level in a public place, if the image was captured without using any electronic, mechanical, or other means to amplify the image beyond normal human perception”; (15) if the image is “of public real property or a person on that property”; (16) “if the image is captured by the owner or operator of an oil, gas, water, or other pipeline for the purpose of inspecting, maintaining, or repairing pipelines or other related facilities, and is captured without the intent to conduct surveillance on an individual or real property” located in Texas; (17) “in connection with oil pipeline safety

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and rig protection”; (18) “in connection with port authority surveillance and security”; (19) “if the image is captured by a registered professional land surveyor in connection with the practice of professional surveying,” and if no individual can be identified in the image; (20) “if the image is captured by a professional, licensed engineer,” provided the image is captured in connection with the practice of engineering and no individual can be identified in the image; (21) if “the image is captured by an employee of an insurance company or of an affiliate of the company in connection with the underwriting of an insurance policy, or the rating or adjusting of an insurance claim, regarding real property or a structure on real property; and the operator of the unmanned aircraft is authorized by the Federal Aviation Administration to conduct operations within the airspace from which the image is captured.”

The statutes prescribe a Class C misdemeanor when a “person uses an unmanned aircraft to capture an image of an individual or privately owned real property in this state with the intent to conduct surveillance on the individual or property captured in the image.” The statute also refers to the Texas Penal Code for the definition of “intent,” meaning the statute applies when it is one’s “conscious objective or desire” to “conduct surveillance.”¹⁴⁷

After defining the crime, the statute expressly provides for one defense to prosecution if the person has “destroyed the image.” This defense has two requirements. First, the destruction must have occurred “as soon as the person had knowledge that the image was captured in violation of this section.” Second, the person must have acted “without disclosing, displaying, or distributing the image to a third party.”

An additional statute prescribes a Class B misdemeanor for “the disclosure, display, distribution, or other use of an image” already acquired under a prohibited circumstance.¹⁴⁸

The statutes create a Class B misdemeanor, or a Class A misdemeanor in the case of a previous conviction, for “intentionally or knowingly”

¹⁴⁷ Tex. Gov’t Code § 423.003.

¹⁴⁸ Tex. Gov’t Code § 423.004.

committing any of the following acts: (1) operating a drone over a “critical infrastructure facility” 400 feet above ground level or lower; (2) allowing a drone to make contact with a “critical infrastructure facility”; or (3) allowing a drone to come so close to a “critical infrastructure facility” that it disturbs or interferes with the operations of that facility.¹⁴⁹

“Critical infrastructure facility” is specifically defined as including the following, provided it is surrounded completely by a fence or another physical barrier suggesting it is obviously designed to exclude intruders, or provided it is clearly marked by sign(s) on the property reasonably likely to come to an intruder’s attention and indicating they are forbidden from entering that property: petroleum or alumina refineries; electrical power facilities; chemical, polymer, or rubber manufacturing facilities; water treatment, pump, or intake facilities; natural gas compressor stations; liquid gas terminal or storage facilities; telecommunications central switching offices or any structure used as part of a system to provide wired or wireless telecommunications services; ports, railroad switching yards, trucking terminals, or freight transportation facilities; gas processing plants; transmission facilities used by a federally licensed radio or television station; steelmaking facilities using an electric arc furnace; dams classified as high hazard by the Texas Commission on Environmental Quality; or a concentrated animal feeding operation. “Critical infrastructure facility” also is defined as including the following, provided it is enclosed by a fence or other physical barrier obviously designated to exclude intruders: any aboveground oil, gas, or chemical pipelines; an oil or gas drilling site; a group of tanks used to store crude oil, such as tank battery; an oil or gas wellhead; or any oil and gas facility that has active flare.

The statutes exclude from this potential offence government entities and their contractors or agents; law enforcement and their contractors or agents; owners or operators of “critical infrastructure facilities,” as well as their contractors or agents; people with prior written consent from an owner or operator of the facility; owners or occupants of property upon which the facility is located or people with consent from those owners or occupants; or operators of drones used for a commercial purpose, if that operator is in compliance with each applicable Federal Aviation

¹⁴⁹ Tex. Gov’t Code § 423.0045.

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Administration rule, restriction, or exemption; and all required Federal Aviation Administration authorizations.

The statutes also discuss evidentiary issues that might arise from images illegally acquired with unmanned aircraft or legally acquired but incidental to the capturing of an image. In these circumstances, such images (1) “may not be used as evidence in any criminal or juvenile proceeding, civil action, or administrative proceeding”; (2) are “not subject to disclosure, inspection, or copying under Chapter 552”; (3) and are “not subject to discovery, subpoena, or other means of legal compulsion for [their] release.” An exception arises when images are used as evidence to prove violations of this chapter, provided they are “subject to discovery, subpoena, or other means of legal compulsion.”¹⁵⁰

Next, the chapter prescribes standards for civil action that might result from illegally capturing an image of an owner or tenant’s property or of the property’s owner or tenant while on the property. Relief is made available in the following forms: (1) injunction; (2) civil penalties of \$5,000 for all illegal images captured or \$10,000 for “disclosure, display, distribution, or other use” of any such image; or (3) damages, provided the defendant “discloses, displays, or distributes the image with malice.” Additionally, the owner or tenant might be awarded court costs and attorneys’ fees in any of the three circumstances. For any action brought under this section, a two-year limitation period governs, beginning at the time of an image’s capture or the time it was initially “disclosed, displayed, distributed, or otherwise used in violation.” Finally, the meaning of malice and venue are determined by preexisting Civil Practice and Remedies Code standards.¹⁵¹

The final parts of the Texas drone laws concern images captured or used by law enforcement. One section declares that the Department of Public Safety will adopt rules and guidelines for unmanned aircraft used by law enforcement. Each law enforcement authority in Texas that uses unmanned aircraft shall comply with the Federal Aviation Administration minimum requirements for public aircraft operations. The other section requires law enforcement agencies to report their use of unmanned aircraft

¹⁵⁰ Tex. Gov’t Code § 423.005.

¹⁵¹ Tex. Gov’t Code § 423.006.

to the governor, the lieutenant governor, and each member of the legislature. The procedural requirements of such reporting are as follows: (1) agencies must report between January 1 and January 15 of each odd-numbered year, provided they (2) used or operated unmanned aircraft during the preceding 24 months and (3) are located in a county or municipality with a population of more than 150,000; (4) agencies must retain reports for public viewing; and (5) agencies must post reports on their publicly accessible website if one exists. The statute also creates substantive requirements for reporting, mandating that reports include the following: (1) the number of uses, organized by date, time, location, types of incidents, and types of justification; (2) the number of criminal investigations aided by unmanned aircraft, as well as the nature of that assistance; (3) the number of times unmanned aircraft was used for means other than criminal investigation, as well as the relevant dates, locations, and nature of assistance; (4) the type of information collected on “an individual, residence, property, or area” that was not the subject of any agency operation, including the frequency of such collection; and (5) the total cost of unmanned aircraft use over the 24-month period, including costs for acquisition, maintenance, repair, operation, and use.¹⁵²

Utah

Utah’s “drone laws” begin with a series of definitions. “Target” is defined as a person, structure, or area upon which one has “intentionally collected or attempted to collect information through the operation of an unmanned aircraft system” or plans to do so. An “unmanned aircraft system” is an aircraft that (1) “is capable of sustaining flight” and (2) “operates with no possible human intervention from on or within the aircraft.” A license is not required to fly a drone if the drone conforms with the definitions above.¹⁵³

The next section lists situations in which a law enforcement agency can obtain data acquired with an unmanned aircraft system. Such data must be obtained (1) “pursuant to a search warrant”; (2) “in accordance with judicially recognized exceptions to warrant requirements”; (3) from a nongovernment actor, subject to limitations listed below; (4) “to locate a

¹⁵² Tex. Gov’t Code §§ 423.007, 423.008.

¹⁵³ Utah Code §§ 72-14-202, 72-14-102, 72-10-109.

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lost or missing person in an area in which a person has no reasonable expectation of privacy;” or (5) “for purposes unrelated to a criminal investigation.” Supplementing this list, the section also specifies that data from a nongovernment actor may only be used by a law enforcement agency in the following circumstances: (1) the data appears relevant to a crime’s commission or (2) the nongovernment actor believes in good faith that “the data pertains to an imminent or ongoing emergency involving danger of death or serious bodily injury to an individual” and “disclosing the data would assist in remedying the emergency.” A law enforcement agency that “obtains, receives, or uses” data acquired pursuant to the methods above must destroy the data as soon as reasonably possible.¹⁵⁴

The Utah Code then describes broad restrictions on government use of data from unmanned aircraft systems, specifying that a law enforcement agency “may not use, copy, or disclose data collected by an unmanned aircraft system on a person, structure, or area that is not a target” and must ensure that data violating this rule must be destroyed as soon as reasonably possible after acquisition.¹⁵⁵

This section also offers a sizable list of exceptions to the restrictive general rule, allowing law enforcement agencies to use the data obtained from drones outside of the above prohibitions if: (1) deleting data would require deleting data that “relates to the target of the operation” and “is requisite for the success of the operation”; (2) the agency receives the data through a court order that “requires a person to release the data to the law enforcement agency” or prohibits its destruction or from a nongovernment actor; (3) the data collection was inadvertent and “the data appears to pertain to the commission of a crime; (4) “the law enforcement agency reasonably determines that the data pertains to an emergency situation, and using or disclosing the data would assist in remedying the emergency”; or (5) the data was collected over public lands outside municipal boundaries.

A law enforcement agency that uses drones or receives data from a third party who used a drone to obtain it must document “the presence and use of the unmanned aircraft; any data acquired; and if applicable, the

¹⁵⁴ Utah Code § 72-14-203.

¹⁵⁵ Utah Code § 72-14-204.

person from whom data was received.”¹⁵⁶

Utah also regulates the use of drones in relation to “wildland fires.” The statutes add a separate definition of an “unmanned aircraft system” in this context, defining it to mean “the entire system used to operate an unmanned aircraft,” including the aircraft itself; communications, navigation, and support equipment therein; controllers; and autopilot functionality. The statute adds definitions for “incident commander,” meaning the “government official or employee in command of the response to a wildland fire,” and “sanctioned entity,” meaning “a person that oversees, is employed by, or is working under the direction of” the following: (1) a government entity; (2) a telecommunications, utility, or insurance provider; (3) a pipeline operator or owner; (4) news media; (5) a resource extraction entity; (6) a person operating an unmanned aircraft system under a certificate of waiver or authorization, or any other authority received from the FAA, that expressly permits operation of the system; or (7) a person similar to those specified by numbers (1) through (5).¹⁵⁷

The section on “wildland fires” specifically targets government use of unmanned aircraft systems in wildfire situations. First, it dictates that “a person may not operate an unmanned aircraft system within an area that is under a temporary flight restriction that is issued by the Federal Aviation Administration as a result of the wildland fire, or an area designated as a wildland fire scene on a system managed by a federal, state, or local government entity that disseminates emergency information to the public, unless the person operates the unmanned aircraft system with the permission of, and in accordance with the restrictions established by, the incident commander.” Second, it prescribes degrees of punishment for a person who violates this rule other than a government official or government employee acting within the person’s government capacity. The general rule is that a class B misdemeanor will result from a violation of the rule.

The misdemeanor consequence is subject to the following exceptions:
(1) A class A misdemeanor will result instead if the unmanned aircraft

¹⁵⁶ Utah Code § 72-14-205.

¹⁵⁷ Utah Code § 65A-3-2.5.

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system operation causes another aircraft being used to contain or control the wildlife to “drop a payload of water or fire retardant in a location other than the location originally designated,” to “land without dropping a payload of water or fire retardant” in the designated area or prevents an aircraft “intended for use in containing or controlling a wildland fire” from taking off; (2) A third-degree felony will result if the system causes the unmanned aircraft to come into direct physical contact with a manned aircraft; and finally, (3) a second-degree felony will result if operation of an unmanned aircraft proximately causes a manned aircraft to collide with the ground, a structure, or another manned aircraft.

The incident commander must grant reasonable access to the areas of, and within three miles, of the wildfire to a sanctioned entity if: (1) access is for a related purpose to that of the sanctioned entity; and (2) access can be granted, with reasonable restriction, without causing a risk to safety or hindering efforts to control the fire.

The chief law enforcement officer of an area under temporary flight restriction as described above, or the incident commander of a wildland fire, is granted the authority to neutralize or permit another to neutralize an unmanned aircraft that is flying in that area if it is reasonably necessary to eliminate behavior prohibited above.

A political subdivision of the state, or any entity acting within it, may not enact any law, rule, or ordinance governing private use of unmanned aircraft with respect to wildland fires.

The Utah Wildlife Board has passed a regulation concerning the use of drones when taking big game. For the purposes of the regulation, “Drone” is defined as “an autonomously controlled, aerial vehicle of any size or configuration that is capable of controlled flight without a human pilot aboard.” A person may not use a drone to take protected wildlife. Further, “a person may not use any type of aircraft, drone, or other airborne vehicle or device from 48 hours before any big game hunt begins through 48 hours after any big game hunting season ends” to do any of the following: (1) “transport a hunter or hunting equipment into a hunting area”; (2) “transport a big game carcass”; or (3) “locate, or attempt to observe or

locate any protected wildlife.” “Flying slowly at low altitudes, hovering, circling or repeatedly flying over a forest, marsh, field, woodland or rangeland where protected wildlife is likely to be found may [also] be used as evidence of violations” of the rules above. However, this section does not apply “to the operation of an aircraft, drone, or other airborne vehicle or device in a usual manner, or landings and departures from improved airstrips, where there is no attempt or intent to locate protected wildlife.”¹⁵⁸

Utah drone laws also prohibit the use of an unmanned aircraft system to intentionally or knowingly, or recklessly chase livestock to cause distress, or to harm livestock. The statute excludes the owner of the livestock, his or her agent, a third party acting with the owner’s permission or direction, a person acting in an emergency situation “to prevent damage to the livestock or property,” a governmental employee or agent acting in his or her official capacity, or a person acting according to “generally accepted animal husbandry practices.”¹⁵⁹

A violation of the statute where the livestock is not “seriously injured or killed as a result of the person’s actions,” or as a result of the person’s actions, livestock was displaced onto property where it was not legally permitted to be results in a class B misdemeanor. Subsequent offenses, an incident where livestock is “seriously injured or killed as a result of the person’s actions,” or damage to livestock or property exceeding \$1,000 will result in a class A misdemeanor charge.

The Utah drone laws further provide guidelines for individuals flying drones recreationally. The individual operating the drone or an observer must maintain visual contact with the drone so that the individual can know the location, attitude, altitude, direction of flight, observe the air for any “air traffic or hazards” and ensure that the drone “does not endanger the life or property of another person.”¹⁶⁰

An individual may not fly a drone in any way that interferes with airports, heliports, or seaplane bases and may not fly drones from a “public

¹⁵⁸ Utah Admin. Code r. 657-5.

¹⁵⁹ Utah Code § 76-9-308.

¹⁶⁰ Utah Code § 72-14-403.

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transit rail platform or station, (...) under a height of 50 feet within a public transit fixed guideway right-of-way; and directly above any overhead electric lines used to power a public transit rail vehicle.”

Flying a drone at an altitude higher than 400 feet above ground is prohibited unless (1) “the drone is flown within a 400-foot radius of a structure;” and (2) is not flown higher than 400 feet above the structure’s highest point.

An individual who violates the above provisions is liable for damages. Upon the first violation, a law enforcement officer shall issue a written warning. If an individual violates the statute after receiving a written warning, he or she is guilty of an infraction. Every subsequent offense of the statute after an infraction was received is a class B misdemeanor.

The Utah drone statutes supersede “any law, ordinance, or rule enacted by a political subdivision before July 1, 2017.” Furthermore, political subdivisions and entities are prohibited from enacting laws governing the private use of drones, unless (1) they are explicitly authorized to do so, or (2) the political subdivision or entity is an airport operator attempting to govern the operation, take off, or landing of an unmanned aircraft within the geographic boundaries of the airport over which the airport operator has authority.¹⁶¹

Additionally, the Utah drone laws now address privacy violations. Generally, a person commits a privacy violation if he or she trespasses on property in order to eavesdrop or surveil a private place, or if he or she installs or uses after installation without the consent of the party entitled to privacy a “device for observing, photographing, hearing, recording, amplifying, or broadcasting sounds or events in the private place,” or outside the private place which would “not ordinarily be audible, visible, or comprehensible” without the consent of the person entitled to privacy. Privacy violations are considered class B misdemeanors.¹⁶²

A person may use a drone without being guilty of a privacy invasion if

¹⁶¹ Utah Code § 72-14-103.

¹⁶² Utah Code § 76-9-402.

the drone is used for “legitimate commercial or educational purposes” and is in compliance with FAA rules.

The Utah drone laws further provides penalties for when weapons are attached to drones. A violation occurs when a drone carries or has attached to it a weapon. An offender of this provision is guilty of a class B misdemeanor. An exception is made (1) for someone who flies a drone that carries or has attached to it a weapon if that person has approval from the FAA and acts accordingly; (2) for someone who has a contract with the state or federal government, or (3) someone who operates such aircraft with the Department of Defense’s permission in airspace controlled by the U.S. Department of defense.¹⁶³

Lastly, Utah prescribes criminal trespass laws in relation to drones. In the context of this section, “enter” means “intrusion of the entire (...) unmanned aircraft.” “Remain unlawfully” is defined as staying on or over private property when the property or part of it is not open to the public, and the person flying the drone is not authorized to do so.¹⁶⁴

A person is guilty of criminal trespass as it relates to drones if he or she (1) causes a drone to “enter and remain unlawfully over property” and either intends to annoy or injure a person, or damage property, including by painting graffiti; intends to commit any crime besides theft or a felony; or “is reckless as to whether the (...) unmanned aircraft’s presence will cause fear for the safety of another,” (2) knowingly “causes an unmanned aircraft to enter or remain unlawfully over property to which notice against entering is given” through personal communication, a fence or other enclosure obviously meant to exclude, or posting signs in reasonably conspicuous place, or (3) enters a condominium unit.

Parts (1) and (2) above are considered class B misdemeanors. If the criminal trespass occurs in a dwelling, the violation is a class A misdemeanor. Part (3) is classified as an infraction. It is an affirmative defense that the property was, at the time of the alleged criminal trespass open to the public, and the “actor complied with all lawful conditions

¹⁶³ Utah Code § 72-14-303.

¹⁶⁴ Utah Code § 76-6-206.

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imposed on access to or remaining on the property.”

Vermont

Vermont law defines a “drone” as “a powered aerial vehicle that does not carry a human operator and is able to fly autonomously or to be piloted remotely.” Additionally, it defines “law enforcement agency” broadly to include any of the following: “the Vermont State Police; a municipal police department; a sheriff’s department; the Office of the Attorney General; a State’s Attorney’s office; the Capitol Police Department; the Department of Liquor Control; the Department of Fish and Wildlife; the Department of Motor Vehicles; a State investigator; or a person or entity acting on behalf of an agency listed in this subdivision.”¹⁶⁵

The statutes generally prohibit any of these law enforcement agencies from using a drone “for the purpose of investigating, detecting, or prosecuting a crime” or to “gather or retain data on private citizens peacefully exercising their constitutional rights of free speech and assembly.” Law enforcement agencies may still use drones in the following circumstances, which serve as exceptions to the general rule: (1) if the agency has obtained a warrant pursuant to Rule 41 of the Vermont Rules of Criminal Procedure or (2) for public safety reasons that do not include collecting and keeping data.

Further, a law enforcement agency may use and keep information gathered with a drone if such drone was utilized for: (1) search and rescue missions, aerial photography for the evaluation of “accidents, forest fires and other fire scenes, flood stages, and storm damage”, and for reasons other than the “investigation, detection or prosecution of crime” or (2) in accordance with a warrant obtained under Rule 41 of the Vermont Rules of Criminal Procedure or a “judicially recognized exception to the warrant requirement.” Under a judicially recognized exception to the warrant requirement, the agency shall obtain the search warrant within 48 hours after the drone use has begun.¹⁶⁶

The statutes establish reporting requirements for law enforcement use

¹⁶⁵ Vt. St. § 4621.

¹⁶⁶ Vt. St. § 4622.

of drones. “On or before September 1 of each year, any law enforcement agency that has used a drone within the previous 12 months shall report the following information to the Department of Public Safety”: (1) the number of uses during that period, the type of incident, the nature of any information collected as a result, and the rationale for the use; (2) the number of criminal investigations the use aided, as well as the number of arrests made through any use during that period, including a description of how the drone aided the investigation or arrest; (3) the number of uses during which a drone “collected data on any person, home, or area other than the target of the surveillance” within that period, as well as the type of any such data; and (4) the cost of the agency’s unmanned aerial vehicle program, as well as the source of funding. In turn, the Department of Public Safety must report the information it receives from these agency reports to the House and Senate Committees on Judiciary and on Government Operations on or before December 1 of each year.¹⁶⁷

The statutes also prohibit any person from equipping a drone with a dangerous or deadly weapon, as well as firing a projectile from a drone. Violators shall be imprisoned not more than one year or fined not more than \$1,000, or both. “Drone” has the same meaning in this section as defined above, and “dangerous or deadly weapon” refers to “any firearm, or other weapon, device, instrument, material or substance, whether animate or inanimate, which in the manner it is used or is intended to be used is known to be capable of producing death or serious bodily injury.”¹⁶⁸

The statutes provide that use of drones by any person (including law enforcement agencies) “shall comply with all Federal Aviation Administration requirements and guidelines.” When such a person uses a model aircraft, as defined in the Federal Aviation Administration Modernization and Reform Act of 2012, the use must comply with the Academy of Model Aeronautics National Model Aircraft Safety Code and other “guidelines of community-based organizations.”¹⁶⁹

The Vermont Fish and Wildlife Board has enacted drone regulations

¹⁶⁷ Vt. St. § 4624.

¹⁶⁸ Vt. St. §§ 4018, 4016.

¹⁶⁹ Vt. St. § 4623.

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regarding “aerial hunting.” The regulations define “unmanned aerial vehicle” as “any device capable of flying in the air which is remotely, automatically, or otherwise piloted without an occupant, including but not limited to drones.” The expressed purpose of the regulation is “to restrict the taking of wild animals by the use of aircraft and drones.” The regulation makes it “unlawful for any person to take or attempt to take wild animals while a person is in an aircraft,” as well as “by use of an UAV.” In addition, it is “unlawful for any person within an aircraft, or with the use of a drone or UAV” to do either of the following: (1) “attempt to locate, surveil, or aid or assist in attempting to locate or surveil any wild animal, for the purpose of taking or attempting to take the wild animal” or (2) “drive or harass any wild animal, or otherwise aid or assist in taking or attempting to take a wild animal.” Finally, “nothing in this rule shall be construed to relieve or modify the requirement to comply with applicable state and federal regulations, regarding aircraft and UAVs or, to apply to qualified personnel carrying out their lawful duties, in compliance with applicable state and federal regulations and permits, regarding aircraft and ‘UAVs.’”¹⁷⁰

Virginia

Virginia defines unmanned aircraft as one that is operated without the possibility of human intervention from within or on the aircraft. The statute prohibits the use of unmanned aircraft systems by any state or local government department or by law enforcement, except during the execution of a search warrant. Any evidence obtained without the warrant is inadmissible in court.¹⁷¹

¹⁷⁰ Vt. Code. R. §§ 16-4-159:1.0 – 16-4-159:5.0.

¹⁷¹ Va. Code § 19.2-60.1. *See also* § 15.2-836 (providing what a department or law enforcement agency is). In 2013, the Virginia legislature placed a moratorium on the use of unmanned aircraft systems, temporarily prohibiting their use by state or local law enforcement departments, even with a valid search warrant. Chapter 755 of the 2013 Acts of Assembly. In an official advisory opinion issued by the Attorney General of the Commonwealth of Virginia, the state clarified that this prohibition also included law enforcement’s use of “quad copters equipped with cameras that can take photographic images and record video,” which based on the industry definition, falls within the ambit of an unmanned aerial vehicle. (Va. Op. Att’y Gen. No. 14-051 (2014)). That prohibition was lifted, after which the current statute was enacted.

A warrant is not necessary when an Amber Alert, Silver Alert or Blue Alert is issued, when the use of an unmanned aircraft system is necessary to mitigate immediate danger to any person, for training purposes related to any such use, or if consent to a warrantless search is obtained. The statute cross-references to other statutes that provide details on how to request and process a search warrant, disclose any information obtained during these searches, and provides penalties for violations of these rules.¹⁷²

The warrant requirements also do not apply for certain government support uses unrelated to law enforcement, such as traffic, flood, and wildfire assessments. Furthermore, this statute does not apply to the U.S. Armed Forces or the Virginia National Guard while using unmanned aircraft systems during training to maintain readiness for a federal mission or when conducting training for other U.S. Department of Defense Units.¹⁷³

The Virginia statutes do not prohibit the use of unmanned aircraft systems for “private, commercial, or recreational use or solely for research and development purposes” when used by institutions of higher education and other research institutions. They do, however, prohibit the use of weaponized unmanned aircraft systems, except in operations at the state’s Space Port and Naval/Aegis facilities at Wallops Island.¹⁷⁴

The Virginia Statutes provide for preemption of all other jurisdictional power to pass these laws. The statutes prohibit localities from enacting any

In 2015, the Attorney General issued another advisory opinion on whether Virginia could regulate the use of drones, or if any actions would be preempted by federal law (Va. Op. Att’y Gen. 2015 WL 4502248). The AG stated that federal law preempted state law in the case of routes, rates and services of commercial drones, and regulation of drone safety, operational standards, and airspace designations. The opinion also provided that states remain free to enact any other laws outside of these federally-preempted areas. Va. Code § 19.2-60.1(E).

¹⁷² Va. Code § 19.2-60.1.

¹⁷³ Va. Code § 19.2-60.1.

¹⁷⁴ Va. Code § 19.2-60.1.

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law regulating the use of privately owned unmanned aircraft systems.¹⁷⁵

Washington

Washington has not passed any statutes regarding drone technology. One opinion by the Attorney General for the state however, suggests that drones may be under restriction in terms of their ability to fly without impediment when it comes to the protection of southern resident orca whales. RCWA 77.15.740 in particular declares that it is unlawful for an individual to cause any “other object” to approach within two hundred yards of a southern resident orca whale. In an opinion by the Attorney General December 30, 2016, the term “other object,” the Attorney General states, is likely apply to drones. This would prohibit an individual from using a drone within two hundred yards of a southern resident orca whale.¹⁷⁶

There are also several regulations addressing drones in the context of use related to the Eastern Washington State University. The rules specifically relate to the use of drones and model aircraft by university employees and students as part of their employment or university activities in any location, as well as any person on or above university grounds.¹⁷⁷

The regulations define “drones” as any unmanned aircraft system included under the FAA definition, including “any aircraft that is operated without the possibility of direct human intervention from within or on the aircraft and associated elements.”¹⁷⁸

While university faculty and students are granted permission to use drones on school property, the use is only allowed if prior permission is granted by the director of public safety. Once an individual puts in a request to make use of a drone on university property, the director of public safety must ensure that the use complies with FAA regulations as well as

¹⁷⁵ Va. Code § 15.2-926.3.

¹⁷⁶ RCWA 77.15.740; *Whether Statute Prohibiting Vessels Or Other Objects From Approaching Within Two Hundred Yards Of A Southern Resident Orca Whale Applies To Drones*, 2016 WL 7627024.

¹⁷⁷ WAC 172-110-010.

¹⁷⁸ WAC 172-110-030(3).

university policy. The requestor and director must then submit the required requests for authorization directly to the FAA. A drone may not be operated without authorization from the FAA. Approval by the director is also required if a student or university employee wants to purchase a drone with university funds, funds disbursed through university accounts, or grant funds prior to the purchase of the device. Furthermore, the regulation specifies that any use or work on drone technology by university employees and students must comply with the International Traffic in Arms Regulations, Export Administration Regulations, and Office of Foreign Asset Control regulations.¹⁷⁹

A person wishing to fly a drone on or above university property for a non-university purpose is required to follow the steps for approval that is required by individuals using drones for a university purpose. Upon receiving approval from the director of public safety and providing proof of FAA approval, the requestor is also required to enter into an agreement releasing the university from liability. The requestor must also provide proof of insurance.¹⁸⁰

The regulations discuss prohibitions on the use of drones once approved. The regulations restrict individuals from flying a drone in areas where there is a reasonable expectation of privacy according to accepted social norms. Drones may also not be used to monitor or record institutional or personal information which can be found, among other things, on computers or other electronic displays.¹⁸¹

The regulations also set out the responsibilities of the director for public safety, such as ensuring compliance with federal and state laws, and considering ethical issues related to a proposed use of drones. The director is authorized to deny, approve, or require modification of proposed drone use, and may develop procedures for implementing the rules subject to the approval of the vice president for business and finance.¹⁸²

¹⁷⁹ WAC 172-110-020, 172-110-040.

¹⁸⁰ WAC 172-110-020, 172-110-050.

¹⁸¹ WAC 172-110-070.

¹⁸² WAC 172-110-080.

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The regulations set out recourse for the university if an individual is found to be in violation of these rules. The university may pursue trespass or other legal action as a result of any violations. The persons or units involved are responsible for any damages resulting from drone use.¹⁸³

The Washington regulations address use of remote controlled aircraft, which is defined to include drones, in state parks. The regulations state that remote controlled aircraft may only be flown in designated areas. These aircraft must follow the remote controlled aircraft management plan approved by the director of the Washington state parks and recreation commission that has been posted for that designated area. Such a plan includes types of aircraft permitted, flying hours, approved zones, etc. Remote controlled aircraft may also be flown in any state park area if granted written permission by the director.¹⁸⁴

When designating a remote controlled aircraft flying area, it is the director's responsibility to consider the potential impacts of allowing such use. This may include the degree of conflict with other aircraft, public safety issues, and any potential damage to park facilities and resources. The director should accomplish this objective by holding a public meeting in the region where the park is located. The director must also establish a committee to advise park staff on issues related to remote controlled aircraft use for each park that allows such use. If the use is permitted, the area designated for the flying of remote controlled aircraft should be conspicuously marked.¹⁸⁵

The regulations provide the director with the power to restrict the use of such vehicles even after the use has been approved. The director may close flying zones if deemed necessary for the protection of the health, safety, and welfare of the public, park visitors or staff, or park resources after holding a meeting that is open to the public. Notice of the meeting must be published in a local newspaper at least 30 days before the meeting. If the threat to health, safety, and welfare is imminent and substantial, the

¹⁸³ WAC 172-110-090.

¹⁸⁴ WAC 352-32-010, 352-32-130(4).

¹⁸⁵ WAC 352-32-130.

director may bypass the meeting and publication requirements.¹⁸⁶

Failure to comply with the above regulations, including failure to abide by a conspicuously posted restriction or the terms of written permission to fly the aircraft is a natural resource infraction under chapter 7.84 RCW. Such violations can lead to a monetary penalty upon the person found to have committed the infraction.¹⁸⁷

West Virginia

West Virginia prohibits the use of drones or “other unmanned aircraft” to hunt, take, wound, shoot at, or kill a wild animal or bird, or to use such unmanned aircraft to drive animals for the purposes of hunting, trapping, or killing.¹⁸⁸

Wisconsin

Two Wisconsin statutes define drones. The statute related to possession of a weaponized drone defines it as “a powered, aerial vehicle that does not carry a human operator, uses aerodynamic forces to provide vehicle lift, and can fly autonomously or be piloted remotely.” The statute restricting the use of drones by law enforcement narrows that definition by adding the qualification that it has the capacity or carries something that has the capacity to collect sound or images.¹⁸⁹

The statutes prohibit Wisconsin law enforcement agencies from using drones without a search warrant to gather evidence or information in a criminal investigation in a place where a person has a reasonable expectation of privacy. The restriction does not apply to drone use in a public place or to assist in an active search and rescue operation, to locate an escaped prisoner, to surveil a place or location for the purpose of executing an arrest warrant, or if a law enforcement officer has reasonable suspicion to believe that the use of a drone is necessary to prevent imminent danger to an individual or the imminent destruction of

¹⁸⁶ *Id.*

¹⁸⁷ WAC 352-32-130; 7.84.100 RCW.

¹⁸⁸ W. Va. Code § 20-2-5.

¹⁸⁹ Wis. Stat. §§ 941.292, 175.55.

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evidence.¹⁹⁰

Wisconsin makes the use of a drone with the intention to photograph, record or otherwise observe an individual in a place where they have a reasonable expectation of privacy a Class A misdemeanor. The statute does not apply to the authorized use of a drone by law enforcement officers. Wisconsin statutes also prohibit the flying of a drone over a correctional institution. A person who violates the statute may be fined up to \$5,000 and any image or other visual recording will be seized by the law enforcement officer investigating the alleged violation. Wisconsin further prohibits the use of drones to interfere with any lawful hunting, fishing, or trapping activity in any way set forth in the statute.¹⁹¹

Wisconsin also makes the operation of any weaponized drone a Class H felony. This statute does not apply to members of the U.S. armed forces or national guard acting in his or her official capacity.¹⁹²

Wyoming

Wyoming adopts the Code of Federal Regulations' definition of "unmanned aircraft" but excludes the definition of "small unmanned aircraft." The C.F.R. defines "unmanned aircraft" as "an aircraft operated without the possibility of direct human intervention from within or on the aircraft." A "small unmanned aircraft" means an "unmanned aircraft weighing less than 55 pounds on takeoff, including everything that is on board or otherwise attached to the aircraft." It should be noted that the C.F.R.'s definition of "model aircraft" is an unmanned aircraft that is capable of sustained flight in the atmosphere, flown within visual line of sight of the person operating the aircraft, and flown for hobby or recreational purposes."¹⁹³

The Wyoming Aeronautics Commission shall promulgate rules governing where unmanned aircraft may take off and land. In coordination with the unmanned aircraft industry in Wyoming and political subdivision

¹⁹⁰ Wis. Stat. § 175.55.

¹⁹¹ Wis. Stat. §§ 942.10, 114.045, 29.083.

¹⁹² Wis. Stat. § 941.292.

¹⁹³ Wyo. Stat. Ann. § 10-1-101, 14 U.S.C. § 1.1.

of the state the commission may also promulgate rules governing the operation of unmanned aircraft, unless prohibited by or previously provided for in federal law. The commission does not have the power to regulate unmanned aircraft operation in “navigable airspace,” a term left undefined.¹⁹⁴

The commission is also charged with assisting communities in developing commercial air service and accommodating military air service in the state. Assistance may include studying airline, aircraft and unmanned aircraft profitability, route analysis, air fare monitoring and recommendations for legislative changes to enhance air services in the state.¹⁹⁵

The commission may conduct investigations, inquiries and hearings concerning the laws of Wyoming relating to aeronautics and accidents or injuries incident to the operation of aircraft, including unmanned aircraft. Members of the commission may issue subpoenas and compel the attendance and testimony of witnesses and the production of papers, books, and documents. All accidents or injuries incident to the operation of aircraft within the state shall be immediately reported to the commission.¹⁹⁶

Flight of unmanned aircraft over state lands and waters is lawful unless flight is at such low altitude as to interfere with the existing use of the land or water, or space above the land or water, by the owner; flight is imminently dangerous to persons or property lawfully on the land or water, or if flight is in violation of the air commerce regulations promulgated by the department of transportation of the United States. These same restrictions are the only ones that apply when operating an unmanned aircraft on one’s own property. Landing of an unmanned aircraft on the lands or waters of another without the owner’s consent is unlawful, except in the case of a forced landing. If damages result from the forced landing, the owners, operator or lessee of the aircraft shall be liable for such damages.¹⁹⁷

¹⁹⁴ Wyo. Stat. Ann. § 10-3-201(j).

¹⁹⁵ *See id.* § 10-3-201(e).

¹⁹⁶ *See id.* § 10-3-301.

¹⁹⁷ *See id.* § 10-4-303.

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