
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Nancy Skinner, Chair

2017 - 2018 Regular

Bill No: SB 347 **Hearing Date:** April 25, 2017
Author: Jackson
Version: February 14, 2017
Urgency: No **Fiscal:** Yes
Consultant: MK

Subject: *State Remote Piloted Aircraft Act*

HISTORY

Source: Author

Prior Legislation: SB 868 (Jackson) failed Assembly Privacy 2016
SB 807 (Gaines) Chapter 834, Stats. 2016
AB 1820 (Quirk) Failed Senate Judiciary 2016
AB 2320 (Calderon) Vetoed 2016
SB 142 (Jackson) Vetoed 2015
SB 167 (Gaines) not heard 2015
SB 170 (Gaines) Vetoed 2015
SB 262 (Galgiani) Failed Senate Judiciary 2015
SB 263 (Gaines) not heard 2015
SB 271 (Gaines) Vetoed 2015
AB 56 (Quirk) inactive Senate Floor
SB 15 (Padilla) failed Assembly Public Safety 2014
AB 1327 (Gorell) Vetoed 2014

Support: California Police Chiefs Association; California State Association of Counties; League of California Cities; Los Angeles County Professional Peace Officers Association; Rural County Representatives of California;

Opposition: American Insurance Association; AUVSI; CalChamber; California Retailers Association; CompTIA; Consumer Technology Association; National Association of Mutual Insurance Companies; Pacific Association of Domestic Insurance Companies; Personal Insurance Federation of California; State Farm Mutual Automobile Insurance Company; TechNet

PURPOSE

The purpose of this bill is to regulate the use of unmanned aircraft and to provide penalties for the violation of those prohibitions.

Existing law authorizes certain persons who are not peace officers to exercise the powers of arrest under certain circumstances, if they have completed a specific training course prescribed by the Commission on Peace Officer Standards and Training. (Penal Code § 830.7).

This bill gives officers and employees of the Department of Transportation who are designated by the Director of Transportation the right to exercise the powers of arrest to enforce the provisions of the State Remote Piloted Aircraft Act, any rule or order issued under that part or any other law applicable to remote piloted aircraft or unmanned aircraft systems.

Existing federal regulations require all drone owners to register their drones with the Federal Aviation Administration (FAA). Commercial drone operators, but not recreational drone operators, must also obtain FAA authorization, which is granted on a case-by-case basis.

Existing law establishes a Division of Aeronautics within the California Department of Transportation (Caltrans). (Public Utilities Code §§ 21001 et seq)

This bill creates the “State Remote Piloted Aircraft Act.”

This bill states that the purpose of the bill is to promote the public interest in remote piloted aircraft by:

- (a) Encouraging the development and general use of remote piloted aircraft.
- (b) Fostering and promoting safety in remote piloted aeronautics.
- (c) Preserving the fundamental right to privacy.
- (d) Protecting the security of critical infrastructure.
- (e) Protecting California’s natural resources.
- (f) Encouraging the use of remote piloted aircraft for newsgathering in a manner consistent with the fundamental right to privacy.
- (g) Effecting, where feasible and consistent with the policies of this state, uniformity with federal aeronautics laws and regulations.
- (h) Establishing only those regulations that are essential and clearly within the scope of the authority granted by the Legislature, in order that persons may engage in every phase of remote piloted aeronautics with the least possible restriction consistent with the safety and the rights of others.

This bill provides that it shall not be construed to either of the following:

- Limit any power of the state or a political subdivision to regulate the operation of remote piloted aircraft if the regulations do not conflict with the provision of this part.
- Preempt any local ordinance that regulates remotely piloted aircraft or unmanned aircraft systems if the ordinance is consistent with this part.

This bill prohibits the operation of a drone in a manner that:

- a) Interferes with manned aircraft;
- b) Is prohibited by federal statute or regulation;
- c) Is careless or reckless and endangers life or property;
- d) Constitutes a nuisance under section 3479 of the Civil Code;
- e) Violates an individual’s right to privacy under the California constitution; and
- f) Constitutes trespass under California law.

This bill prohibits the weaponization of drones.

This bill provides that a person shall not operate a remote piloted aircraft in this state without first complying with all licensing, registration, and marking requirements required by the Federal Aviation Administration (FAA).

This bill requires every commercial operator of a drone to procure adequate protection against liability.

This bill provides that any person using, operating or renting a remote piloted aircraft with the permission of a commercial operator shall also maintain adequate protection against liability.

This bill provides that Caltrans may adopt rules and regulations relating to the provisions in this bill.

This bill provides that the amount of liability insurance or proof of financial responsibility required shall be determined by Caltrans after a public hearing.

Existing law provides that a violation of the State Aeronautics Act is punishable as a misdemeanor with a penalty of up to six months in jail and/or a fine of not more than \$1,000.

This bill provides that a violation of any provision of this part or any rule or order issued shall be punishable as a wobblette with an infraction fine not to exceed \$250 and the misdemeanor penalty to be up to 6 months in county jail and/or a fine not to exceed \$1,000.

This bill provides that any state or peace officer charged with the enforcement of state and local laws or ordinances may enforce and assist in the enforcement of this part, any rule or order issued under this part, and all other laws of the state applicable to remote piloted aircraft or unmanned aircraft systems.

This bill provides that nothing in this part shall be construed to impair or impede any other rights, causes of action, claims, or defenses available under other laws. The remedies in this part are cumulative with any other remedies available under other laws.

This bill provides that the provisions of this bill are severable. If any part of this bill is found to be invalid, the remaining parts of the bill are unaffected.

COMMENTS

1. Need for This Bill

According to the author:

The development of small unmanned aircraft systems – known as “unmanned aerial vehicles,” “remote piloted aircraft,” or simply “drones” – promises to revolutionize the way Californians interact with each other and their environment. Drone technology may transform the way California’s farmers and ranchers manage livestock and agricultural resources. Drone technology could also fundamentally

alter the way goods move across the state and greatly improve the capacity of emergency personnel to respond to disasters.

However, the lack of clear rules governing the use of this emerging technology threatens to harm orderly use of California's airspace and undermine public safety. To date, the lack of regulation has led to disputes between neighbors concerned about invasions of their privacy, impacts to wildlife, near-collisions with airplanes and helicopters, interference with firefighting efforts, and accidents injuring innocent bystanders. Some individuals are reportedly modifying drones to carry weapons, and, in at least one instance, a drone was used to land radioactive material on the roof of a government building.

Commonsense rules are needed to ensure that drones are used in a safe and responsible manner, consistent with the values of the people of the State of California.

This bill creates a comprehensive set of sensible and intelligent drone regulations that strike an appropriate balance between protecting public safety and privacy, and encouraging innovation and technology. Among other things, SB 347:

- Limits disruptive drone use near private property;
- Prohibits the weaponization of drones;
- Prohibits the reckless operation of drones and drone interference with manned aircraft;
- Requires drone pilots to comply with all applicable licensing, registration, and aircraft marking requirements; and
- Requires commercial drone operators to obtain liability insurance or proof of financial responsibility.

SB 347 continues to allow local governments to regulate drone use in their communities, and creates a statewide mechanism for the enforcement of drone safety rules and ordinances. SB 347 avoids the threat of frivolous litigation by vesting enforcement authority with California's peace officers, and directs the state's Division of Aeronautics to work cooperatively with local governments, state agencies, and the federal government to implement this regulatory framework.

2. Current Regulation

On June 21, 2016 the FAA adopted regulations for commercial uses of drones weighing less than 55 pounds. These regulations require line-of-sight operation, a maximum airspeed of 100 mph, and a ban on operation over people, a maximum operating altitude of 400 feet, and training and licensing for the operator. Accidents that result in serious injury or property damage of more than \$500 must be reported to the FAA. Both commercial and recreational drone users must register their drones if they weight more than 0.55 pounds.

Several California local governments have enacted their own drone regulations. In October 2015, the City of Los Angeles enacted drone regulations similar to the FAA proposal. In December, the city filed the first criminal charges under the ordinance, citing two individuals for operating a drone which interfered with a Los Angeles Police Department air unit, causing it to change its

landing path. In northern California, the Golden Gate Bridge, Highway and Transportation District banned drones near the Golden Gate Bridge after a drone crashed on the roadway. The City of San Diego has proposed drone rules, which give local police enforcement authority, which are pending.

3. Statewide regulation of Drones

This bill provides that CalTrans may adopt regulations and rules consistent with this bill for the purpose of protecting and ensuring the general public interest and safety and the safety of persons operating a remote piloted aircraft.

The bill specifically prohibits operating a remote piloted aircraft in a manner: that interferes with aircraft; that is prohibited by federal statute; in a reckless manner; in a manner that constitutes a nuisance; in a manner that violates an individual's right to privacy; or, in a manner that constitutes trespass.

The bill also specifically prohibits weaponizing a remote piloted aircraft.

This bill also requires liability insurance, in an amount to be determined by CalTrans, to commercially operate a remote piloted aircraft.

4. No preemption

This bill states that it shall not be construed to preempt any local ordinance that regulates remotely piloted aircraft or unmanned aircraft systems if the ordinance is consistent with the bill.

5. Criminal Penalties

This bill provides that a violation of any provision of this part or any rule or order issued shall be punishable as a misdemeanor with an infraction fine not to exceed \$250 and the misdemeanor penalty to be up to 6 months in county jail and/or a fine not to exceed \$1,000.

6. Argument in Support

In support CSAC states:

The increased use of unmanned aircraft technology in recent years offers a variation of benefits, but also presents a series of challenges for state and local government regulatory authorities. The lack of clear regulations with this technology has led to multiple problems with interference with first responders, firefighting efforts, near-collisions with aircrafts, and invasions of privacy. SB 347 takes a critical step in addressing these issues by establishing the State Remote Piloted Aircraft Act.

SB 347 creates a comprehensive set of practical and intelligent drone regulations that provide a balance between protecting public safety and privacy and encouraging innovation and technology. This measure is carefully drafted to protect local and state regulating authority for remotely piloted aircrafts or unmanned aircraft systems as long as the ordinances are consistent with the State Remote Piloted Aircraft Act.

7. Argument in Opposition

State Farm opposes this bills stating:

The Federal Aviation Administration is currently working on a new set of regulations that will further the national governance of drones in American airspace. State Farm strongly encourages all states to allow the FAA's rules to take precedence and to limit complicated patchworks of laws and regulations.

In addition to our concern about the conflict between federal and state rules, we also have serious concerns regarding the insurance mandate in SB 347 for all commercial operators. Liability insurance, as obtained and regulated today, is based on historical claims data and underwriting experience. Given the relatively new technology of remote piloted aircrafts, liability insurers are still in the process of collecting data to develop insurance coverage for drone use. As such, State Farm believes this insurance mandate is premature.

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