



# *Unmanned Aircraft System Work Group Update*

*September 30, 2015*

*House and Senate Judiciary Committees*

# Overview

- Unmanned aircraft systems, or drones, are flying machines that do not have an operator in or on the machines.
  - Large = greater than 55 pounds
  - Small = less than 55 pounds
  - They can be purchased in toy stores, online, or built from kits.
  - Three categories:
    - Model aircraft/recreational
    - Commercial
    - Public Use



# Federal Law and Current Events

- Still no rule on small Unmanned Aircraft Systems until 2016
- FAA has issued over 1300 exceptions under Section 333 of 2012 FAA Modernization and Reform Act (FMRA)
  - In November of 2014, it was less than 100 “333 exceptions”.
  - “333 Exceptions” allow commercial operations of UAS to businesses.
- FAA has blanket authorized test ranges to operate up to 400 ft in Certificate of Authorization (COA) Pendleton, Warm Springs, and Tillamook (still public use aircraft only on ranges for experimental use)
- FAA recently revised Advisory Circular 91-57 (from 1981) on model aircraft to be more current. Major changes:
  - Limit model aircraft to 55 pounds or less.
  - Flown strictly for hobby or recreational purposes.
  - Asserts FAA’s right to enforcement of recreational aircraft that “endanger the safety of the National Airspace System”.
  - Expands requirement to notify airports when operating near them from 3 miles to 5 miles.
  - Specifically prohibits operations in prohibited areas, Special Flight Rule Areas and over the National Capitol.
- NASA and FAA working on UAS airspace – below 500 ft.
  - Google, Amazon heavily involved.
- California Governor vetoed 350 ft altitude limitation on UAS

# Review

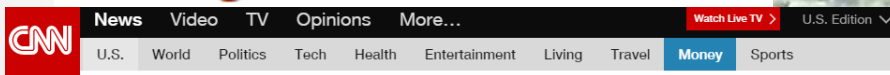
- HB 2710 in the 2013 session began the drone discussion.
  - Prohibits law enforcement use of a drone without a warrant, or probable cause + exigent circumstances.
  - Law enforcement may use drones for search and rescue, crime scene reconstruction, or training on use of drones.
  - Public bodies must register drones beginning Jan 2, 2016.



# Review

- A *public body* may not operate a drone that is capable of firing a bullet or projectile, or laser, or otherwise can be used as a weapon.
  - THIS PROHIBITION IS NOT EXTENDED TO PRIVATE USERS.

## Student Builds Working GUN DRONE, Posts It On YouTube. What Could Go Wrong? [VIDEO]



Handgun-firing drone appears legal in video, but FAA, police probe further

By [Michael Martinez](#), [John Newsome](#) and [Rene Marsh](#), CNN

Updated 8:15 PM ET, Tue July 21, 2015



# Review

- HB 2710 applies to individual users in two ways:
  - Creates crime of intentionally operating a drone to fire at aircraft, crash into an aircraft, or gain control of another person's licensed drone.
  - Creates a private right of action for persons who have warned a drone operator not to fly over property and drone is then flown at height of less than 400 feet over property again. (Revised in 2014)

- Treble damages + attorney fees.
- Only exemption is for lawful taking off or landing at airfield or runway.

## It's drone season! Colorado town to vote on license to shoot down unmanned aircraft

Deer Trail will vote Tuesday on the ordinance that would place a \$100 bounty on drones with U.S. government markings.

BY STEPHEN REX BROWN / NEW YORK DAILY NEWS / Tuesday, December 10, 2013, 9:07 AM

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# Review

- HB 2354 in 2015 session
  - Removed the 400 foot restriction for bringing a private action. Now based on behavior of the operator vice altitude
  - Changed “drone” to “unmanned aircraft system.”
  - Asked work group to look deeply into the issues and report back.
- HB 2534 in 2015 session
  - Requires Oregon Department of Fish and Wildlife to develop rules prohibiting use of UASs for angling, hunting, trapping, or interference with those activities.

# Review

- Work group has met several times throughout the interim.
- Several sub groups meeting regularly.
  - Law Enforcement and Privacy
  - Economic Development and Innovation
  - Registration, Education and Safety
- Representatives from UAS development industry, attorneys, hobbyists, commercial users, public bodies, law enforcement, ACLU, OCDLA, DOJ, Legislature, etc.



# Economic Development

- Continue incentives for job creation in UAS industry.
- Continue SOAR promotion of test ranges.
- Positives of UAS:
  - Agriculture
  - Photography
  - Media
  - Inspection
  - Search and Rescue
  - High Tech Industry in Oregon

# Law Enforcement/Privacy Update

- Issues:
  - Law enforcement responses to calls,
  - Law enforcement uses,
  - Privacy,
  - Safety,
  - Commercial operations/civil right of action/privacy.
- Work group reviewed current statutes.
- FAQ development for law enforcement on current statutes that can be used in response to drone calls.
- Accountability mechanism through registration system.



# Law Enforcement/Privacy Update

- Potential large changes:
  - Apply provisions of HB 2710 to all aircraft, including those that fall within “model” aircraft category. These include:
    - ORS 837.375—Interference with a drone; unauthorized control.
    - ORS 837.995—Crimes involving drones.
      - Currently, any aircraft less than 55 pounds used for recreational purposes does not fall within restrictions of HB 2710.

# Law Enforcement/Privacy Update

- Potential specific changes:
  - ORS 164.885, Endangering Aircraft. Class C Felony.
    - Make clear that applies only to manned aircraft.
  - ORS 163.700, Invasion of Privacy.
    - Make clear that “public places” as used in ORS 161.015 does not include airspace in curtilage of residence. There is concern with “highway” eventually including airspace.
  - ORS 162.257, Interference with a firefighter or emergency medical services provider.
    - Include a perimeter around and above fire operations in which aircraft may not fly without permission.
  - Charge Criminal Mischief 3 as a violation to reduce evidentiary burden (preponderance of the evidence vs beyond reasonable doubt) and to allow for a ticket instead of a misdemeanor.

# Registration Possibilities

- Legislative Report from Nov 2014 Recommendations
- All commercial users and recreational operators must register with Department of Aviation.
  - Register the operator, not the individual machine.
  - Operator must read material and pass a simple online test on where to fly, restrictions, and privacy concerns.
  - Small fee for testing and registration (\$20).
  - Some sort of sticker or marker is sent to the operator to be attached to the individual UAS. Each UAS must have a sticker. The sticker correlates to the operator, not the machine.
  - Operators may request additional stickers for additional machines—number on sticker will correlate to operator.
  - Fine for operating a UAS without a sticker.
- Must be simple, easy, and inexpensive.

# Further Work

- Potential new restriction based on NV AB 239
  - Prohibit operation of a UAS within 500 horizontal feet or 250 vertical feet of a “critical facility” without written permission.
  - Critical facility includes jails or correctional facilities, petroleum refineries, chemical production or storage or facilities, pipelines, wastewater treatment facilities, power generating stations or substations, and transmission lines.
  - Could include schools, stadiums, concert venues.
  - Misdemeanor for operating in restricted space.
  - Overbroad?



# Further Work

- Data collection
  - Handling of data gathered through lawful operations.
    - Public data (ODOT),
    - Commercial data (Amazon),
    - Private data (Citizen photographers).
  - Statutory requirements on data collection?
    - Look at policy on information gathered from body worn cameras by public agencies.
    - Limitations
- Commercial use and private right of action
  - Tension between restricting airspace around the home and commercial use of the airspace.
  - Example: Person can petition court for an injunction if pizza delivery company delivers to neighbor by flying through airspace over property.
  - Possible solutions:
    - Lanes for aircraft.
    - Limits on hovering or recording over property.
    - Trespass and noise violations.
    - Create exemption from civil liability.
- Define “Aircraft” within the criminal code.

# Questions and Feedback

