
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Nancy Skinner, Chair

2017 - 2018 Regular

Bill No: AB 3173 **Hearing Date:** June 26, 2018
Author: Irwin
Version: April 26, 2018
Urgency: No **Fiscal:** Yes
Consultant: EC

Subject: *Unmanned Aerial Vehicles*

HISTORY

Source: Author

Prior Legislation: AB 811 (Gaines), 2016, died in Senate Public Safety

Support: Unknown

Opposition: None known

Assembly Floor Vote: 73 - 0

PURPOSE

The purpose of this bill is to make it an infraction to operate an unregistered UAS that is required to be registered under federal law.

Existing law defines “unmanned aircraft system” to mean any airborne device that does not carry persons and is piloted from a remote location, whether or not that device contains a camera or other recording equipment. “Unmanned aircraft system” includes those devices commonly referred to as drones, unmanned aerial vehicles, remotely piloted aircraft, or remotely controlled aircraft. (Pen. Code, § 650, subd. (f).)

Existing law requires a UAS operator to submit registration to the Administrator of the Federal Aviation Administration or to anyone he has delegated authority to enforce the Administration’s regulations. (14 C.F.R., § 107.7.)

Existing law states that a person shall not operate an unmanned aircraft system required to be registered by federal law without valid paper or electronic evidence of registration. (Pen. Code, § 650, subd. (a).)

Existing law states that any peace officer authorized to enforce state and local law is authorized to demand evidence of registration from a person operating an unmanned aircraft system. (Pen. Code, § 650, subd. (b).)

Existing law states that any person who operates an unmanned aircraft system while under the influence of intoxicating liquor, any drug, or any combination of any intoxicating liquor and

drug, in condition that they are unable to exercise reasonable care and control of the aircraft, is guilty of a misdemeanor. (Pen. Code § 650, subd. (c).)

Existing law a violation of subdivision (a) or (c) is an infraction punishable by a fine not to exceed five hundred dollars (\$500). (Pen. Code, § 650, subd. (d).)

Existing law states that this section does not preclude any administrative, civil, or criminal action under federal law. (Pen. Code, § 650, subd. (e).)

This bill makes an infraction to operate a UAS that is required to be registered by federal law without evidence of registration.

This bill allows any peace officer, upon reasonable suspicion that a violation of unmanned aircraft system operation without valid federal law registration is occurring, to demand evidence of registration from any person operating a UAS.

This bill makes a violation of subdivision (a) or (c) is an infraction punishable by a fine not to exceed two hundred fifty dollars (\$250).

COMMENTS

1. Need for This Bill

The author states:

Currently, there is a lack of state guidance as it relates to unmanned aircraft, or drones, and where, when, and how that they can be operated safely and legally. This lack of state guidance has led to frustration from local jurisdictions, which often end up passing their own ordinances which can make it confusing for drone hobbyists that wish to comply with the law and difficult for law enforcement to enforce the law. Stakeholders of AB 3173 have come together in an effort to resolve some of these issues. Currently, the bill reflects the agreement that we need make it clear that law enforcement is able to respond and enforce basic laws surrounding drone use.

2. Unmanned Aircraft System or Drones

This bill uses the term “unmanned aircraft systems,” or UAS as defined, to reference what are commonly known as drones. Drones, the term also used by the Federal Aviation Administration (FAA), is defined to include the UAS itself and the associated elements, the components that control the aircraft. The FAA’s fact sheet notes the types of UAS:

UAS come in a variety of shapes and sizes and serve diverse purposes. They may have a wingspan as large as a jet airliner or smaller than a radio-controlled model airplane.

Because they are inherently different from manned aircraft, introducing UAS into the nation’s airspace is challenging for both the FAA and aviation community. UAS must be integrated into the busiest, most

complex airspace in the world — one that is evolving from ground-based navigation aids to a GPS-based system in NextGen. And because UAS technology also continues to evolve, the agency's rules and policies must be flexible enough to accommodate that progress.¹

When considering these drones, hobby-size airplanes and helicopters equipped with digital cameras are becoming more and more affordable for the average consumer. Those hobby aircrafts may be used for pure novelty, surveying one's yard, or even checking to see the condition of a roof. With respect to the treatment of model aircraft as a UAS system, the FAA has issued the following clarification:

The current FAA policy for UAS operations is that no person may operate a UAS in the National Airspace System without specific authority. For UAS operating as public aircraft the authority is the [Certificate of Waiver or Authorization], for UAS operating as civil aircraft the authority is special airworthiness certificates, and for model aircraft the authority is AC 91-57 [(the model aircraft operating standards)].

The FAA recognizes that people and companies other than modelers might be flying UAS with the mistaken understanding that they are legally operating under the authority of AC 91-57. AC 91-57 only applies to modelers, and thus specifically excludes its use by persons or companies for business purposes.

3. UAS Registration

The FAA requires every drone weighing more than 0.55 lbs. to be registered. There are two types of registration: the Small UAS Rule (Part 107) or the Special Rule for Model Aircraft (Section 336). The Small UAS Rule requires registration and labeling a drone with a registration number. Registration costs \$5 per aircraft and is valid for 3 years. Under the Special Rule for Model Aircraft, one must register as a “modeler,” label the aircraft with a registration number. The individual must be 13 years of age or older and a U.S. citizen or legal permanent resident.

A list of example drones that do or do not need registering can be found on this site: https://www.faa.gov/uas/getting_started/model_aircraft/media/UAS_Weights_Registration.pdf

4. Governor's Vetoes

Senator Gaines introduced SB 168, SB 271, and SB 170 in the 2015-2016 Legislative Session; all were vetoed by the Governor.

SB 168 would have made it a misdemeanor operate a UAS, in a manner that prevents or delays the extinguishment of a fire, or in any way interferes with the efforts of firefighters to control, contain, or extinguish a fire.

SB 271 would have made it an infraction to knowingly and intentionally operate an unmanned aircraft system on the grounds of, or less than 350 feet above ground level within

¹ “Fact Sheet – Unmanned Aircraft Systems (UAS),” template, accessed March 20, 2018, https://www.faa.gov/news/fact_sheets/news_story.cfm?newsId=18297.

the airspace overlaying, a public school providing instruction in kindergarten or grades 1 to 12, inclusive, during school hours and without the written permission of the school principal or higher authority, or his or her designee, or equivalent school authority.

SB 170 would have created a felony crime for the use of a UAS to deliver contraband into a prison or county jail and creates a misdemeanor crime for the use of UAS over a prison or capture images of a prison.

The Governor returned each bill unsigned with the following veto message:

Each of these bills creates a new crime - usually by finding a novel way to characterize and criminalize conduct that is already proscribed. This multiplication and particularization of criminal behavior creates increasing complexity without commensurate benefit.

Over the last several decades, California's criminal code has grown to more than 5,000 separate provisions, covering almost every conceivable form of human misbehavior. During the same period, our jail and prison populations have exploded.

Before we keep going down this road, I think we should pause and reflect on how our system of criminal justice could be made more human, more just and more cost-effective.

Although this bill would create a new crime, it is an infraction level offense which does not implicate jail or prison populations. In addition, it does not seek to criminalize behavior which there already exists a Section in the Penal Code, but rather new behavior altogether.

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