

AMENDED IN ASSEMBLY JUNE 30, 2015

AMENDED IN ASSEMBLY JUNE 3, 2015

AMENDED IN SENATE APRIL 14, 2015

SENATE BILL

No. 142

Introduced by Senator Jackson

(Principal coauthor: Assembly Member Calderon)

January 26, 2015

An act to add Section 1708.83 to the Civil Code, *and to amend Section 21012 of the Public Utilities Code*, relating to civil law.

LEGISLATIVE COUNSEL'S DIGEST

SB 142, as amended, Jackson. Civil law: unmanned aerial vehicles.

Existing federal law, the FAA Modernization and Reform Act of 2012, provides for the integration of civil unmanned aircraft systems, commonly known as drones, into the national airspace system by September 30, 2015. Existing federal law requires the Administrator of the Federal Aviation Administration to develop and implement operational and certification requirements for the operation of public unmanned aircraft systems in the national airspace system by December 31, 2015.

~~Existing law imposes liability for physical invasion of privacy, if a person knowingly enters onto the land of another without permission or otherwise commits a trespass in order to capture any image or recording of the plaintiff engaging in a private activity and the invasion is offensive to a reasonable person.~~

~~This bill would define knowing entry upon the land of another also to include operation of an unmanned aerial vehicle below the navigable airspace overlaying the real property or operation of an unmanned aerial~~

vehicle less than 350 feet above ground level within the airspace overlaying the real property, without the consent of the landowner or without legal authority.

Existing law deems the detriment caused by wrongful occupation of real property to be the value of the use of the property for the time of the wrongful occupation, the reasonable cost of repair or restoration of the property, and the costs of recovering the possession.

This bill would extend liability for wrongful occupation of real property and damages to a person who operates an unmanned aerial vehicle below the navigable airspace overlaying the real property or operation of an unmanned aerial vehicle *aircraft or unmanned aircraft system, as defined*, less than 350 feet above ground level within the airspace overlaying the real property, without the consent of the landowner *express permission of the person or entity with the legal authority to grant access* or without legal authority.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1708.83 is added to the Civil Code, to
2 read:

3 ~~1708.83.—(a) A person knowingly enters onto the land of~~
4 ~~another person pursuant to subdivision (a) of Section 1708.8 if,~~
5 ~~without the consent of the landowner or without legal authority,~~
6 ~~he or she does either of the following:~~

7 ~~(1) Operates an unmanned aerial vehicle below the navigable~~
8 ~~airspace, as defined in paragraph (32) of subsection (a) of Section~~
9 ~~40102 of Title 49 of the United States Code, overlaying the real~~
10 ~~property.~~

11 ~~(2) Operates an unmanned aerial vehicle less than 350 feet above~~
12 ~~ground level within the airspace overlaying the real property.~~

13 ~~(b) A person wrongfully occupies real property and is liable for~~
14 ~~damages pursuant to Section 3334 if, without the consent of the~~
15 ~~landowner or without legal authority, he or she does either of the~~
16 ~~following:~~

17 ~~(1) Operates an unmanned aerial vehicle below the navigable~~
18 ~~airspace, as defined in paragraph (32) of subsection (a) of Section~~
19 ~~40102 of Title 49 of the United States Code, overlaying the real~~
20 ~~property.~~

1 ~~(2) Operates an unmanned aerial vehicle less than 350 feet above~~
2 ~~ground level within the airspace overlaying the real property.~~

3 1708.83. (a) *A person wrongfully occupies real property and*
4 *is liable for damages pursuant to Section 3334 if, without express*
5 *permission of the person or entity with the legal authority to grant*
6 *access or without legal authority, he or she operates an unmanned*
7 *aircraft or unmanned aircraft system less than 350 feet above*
8 *ground level within the airspace overlaying the real property.*

9 (b) *For purposes of this section:*

10 (1) *“Unmanned aircraft” means an aircraft that is operated*
11 *without the possibility of direct human intervention from within*
12 *or on the aircraft.*

13 (2) *“Unmanned aircraft system” means an unmanned aircraft*
14 *and associated elements, including communication links and the*
15 *components that control the unmanned aircraft, that are required*
16 *for the pilot in command to operate safely and efficiently in the*
17 *national airspace system.*

18 ~~(3)~~

19 (c) *This section shall not be construed to impair or limit any*
20 *otherwise lawful activities of law enforcement personnel or*
21 *employees of governmental agencies or other public or private*
22 *entities that may have the right to enter land by operating an*
23 ~~unmanned aerial vehicle~~ *unmanned aircraft or unmanned aircraft*
24 *system within the airspace overlaying the real property of another,*
25 *including the right to use private lands acquired pursuant to*
26 *subdivision (d) of Section 1009.*

27 (d) *Nothing in this section is intended to limit the rights and*
28 *defenses available at common law under a claim of liability for*
29 *wrongful occupation of real property.*

30 SEC. 2. *Section 21012 of the Public Utilities Code is amended*
31 *to read:*

32 21012. *“Aircraft” means any manned contrivance used or*
33 *designed for navigation of, or flight in, the air requiring*
34 *certification and registration as prescribed by federal statute or*
35 *regulation. Notwithstanding the foregoing provisions of this*
36 *section, manned lighter-than-air balloons and ultralight vehicles*
37 *as defined in the regulations of the Federal Aviation Administration*
38 *(14 C.F.R. Part 103), whether or not certificated by the Federal*
39 *Aviation Administration, shall not be considered to be aircraft for*
40 *purposes of this part. “Aircraft” shall not include an unmanned*

- 1 *aircraft that is operated without the possibility of direct human*
- 2 *intervention from within or on the aircraft.*

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