

AMENDED IN SENATE AUGUST 24, 2015

AMENDED IN SENATE AUGUST 17, 2015

SENATE BILL

No. 168

Introduced by ~~Senator Gaines~~ *Senators Gaines and Jackson*

(Principal coauthor: Assembly Member Gatto)

(~~Coauthor: Assembly Member Mayes~~)

(Coauthors: *Senators Anderson, Bates, Berryhill, Cannella, Fuller, Huff, McGuire, Morrell, Nielsen, Roth, and Runner*)

(Coauthors: Assembly Members Travis Allen, Bigelow, Brown, Chávez, Cooper, Dahle, Beth Gaines, Jones, Lackey, Mathis, Obernolte, and Rodriguez)

February 5, 2015

An act to add Chapter 4.5 (commencing with Section 853) to Part 2 of Division 3.6 of Title 1 of the Government Code, ~~relating to immunity from civil liability~~, and to add Section 402.5 to the Penal Code, relating to unmanned aircraft systems, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 168, as amended, Gaines. ~~Immunity from civil liability: emergency responders: unmanned aircraft systems. Unmanned aircraft systems.~~

Existing law makes it a misdemeanor to engage in disorderly conduct that delays or prevents a fire from being timely extinguished or to resist or interfere with the lawful efforts of a firefighter in the discharge of an official duty. Existing law makes it a misdemeanor to impede police officers, firefighters, emergency personnel, or military personnel in the performance of their duties in coping with an emergency.

This bill would make it unlawful to knowingly, intentionally, or recklessly operate an unmanned aircraft or unmanned aircraft system, as defined, 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. The bill would make a violation of this prohibition punishable by imprisonment in a county jail not to exceed 6 months, by a fine not to exceed \$5,000, or by both that fine and imprisonment. By creating a new crime, this bill would impose a state-mandated local program.

The Government Claims Act sets forth the general procedure for the presentation of a claim as a prerequisite to the commencement of an action for money or damages against a “public entity” or a “public employee,” and defines those terms for its purposes. The act prohibits liability against a public entity or public employee for, among other things, certain acts relating to the provision of fire protection and police and correctional activities, as specified.

This bill would further limit the exposure to liability by an emergency responder, defined to include a public entity, public employee, and an unpaid volunteer, as specified, for damages to an unmanned aircraft system, if the damage was caused while the emergency responder was performing specific emergency services and the unmanned aircraft system was interfering with the provision of those emergency services.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.

State-mandated local program: ~~no~~-yes.

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

- 1 SECTION 1. Chapter 4.5 (commencing with Section 853) is
- 2 added to Part 2 of Division 3.6 of Title 1 of the Government Code,
- 3 to read:

CHAPTER 4.5. EMERGENCY RESPONDERS

853. An emergency responder shall not be liable for any damage to an unmanned aircraft system, if the damage was caused while the emergency responder was providing, and the unmanned aircraft system was interfering with, the operation, support, or enabling of any of the following emergency services:

(a) Ambulance services, including, but not limited to, air ambulance services.

(b) Firefighting or firefighting-related services, including, but not limited to, air services related to firefighting or firefighting-related services.

(c) Search and rescue services, including, but not limited to, air search and rescue services.

853.5. The following definitions shall apply to this chapter:

(a) “Emergency responder” means a public entity, a public employee, or an unpaid ~~volunteer~~ *volunteer*, acting within the scope of authority implicitly or expressly provided by a public entity or public employee to respond to an emergency situation.

(b) “Unmanned aircraft” means an aircraft that is operated without the possibility of direct human intervention from within or on the aircraft.

(c) “Unmanned aircraft system” means an unmanned aircraft and associated elements, including, but not limited to, communication links and the components that control the unmanned aircraft that are required for the pilot in command to operate safely and efficiently in the national airspace system.

SEC. 2. Section 402.5 is added to the Penal Code, to read:

402.5. (a) *It is unlawful to knowingly, intentionally, or recklessly operate an unmanned aircraft or unmanned aircraft system 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, including, but not limited to, efforts to control, contain, or extinguish the fire from the air. A violation of this section is punishable by imprisonment in a county jail not to exceed six months, by a fine not to exceed five thousand dollars (\$5,000), or by both that imprisonment and fine.*

(b) (1) *For purposes of this section, “unmanned aircraft” means an aircraft that is operated without the possibility of direct human intervention from within or on the aircraft.*

(2) For purposes of this section, “unmanned aircraft system” means an unmanned aircraft and associated elements, including, but not limited to, communication links and the components that control the unmanned aircraft that are required for the individual in command to operate safely and efficiently in the national airspace system.

(3) For purposes of this section, “recklessly” means a person is aware of and consciously disregards a substantial and unjustifiable risk that his or her act will prevent or delay the extinguishment of a fire, or in any way interfere with the efforts of firefighters to control, contain, or extinguish a fire, including, but not limited to, efforts to control, contain, or extinguish the fire from the air. The risk shall be of such nature and degree that disregard of that risk constitutes a gross deviation from the standard of conduct that a reasonable person would observe in the situation. A person who creates such a risk but is unaware of that risk solely by reason of voluntary intoxication also acts recklessly for purposes of this section.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

~~SEC. 2:~~

SEC. 4. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

To address the interference of unmanned aircraft with efforts to fight fires and to keep fires from raging out of control during this historic drought, and to protect emergency responders who are providing specific critical emergency services from potential civil liability relating to the new and increasing proliferation of unmanned aircraft systems that disrupt the provision of those

1 emergency services, it is necessary that this act take effect
2 immediately.

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