

AMENDED IN SENATE MARCH 28, 2016

AMENDED IN SENATE MARCH 1, 2016

SENATE BILL

No. 868

Introduced by Senator Jackson

January 12, 2016

An act to amend Section 21012 of, and to add Part 1.5 (commencing with Section 21750) to Division 9 of, the Public Utilities Code, relating to aviation.

LEGISLATIVE COUNSEL'S DIGEST

SB 868, as amended, Jackson. State Remote Piloted Aircraft Act.

Existing federal law, the ~~Federal Aviation Administration~~ *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. Existing federal law generally requires an aircraft to be registered with the Federal Aviation Administration (FAA), prohibits a person from operating a United States registered aircraft unless that aircraft displays specified nationality and registration marks, and, unless authorized by the FAA, prohibits a person from placing on any aircraft a design, mark, or symbol that modifies or confuses those nationality and registration marks.

The State Aeronautics Act governs various matters relative to aviation in the state, including, among other things, fostering and promoting safety in aeronautics and establishing only those regulations that are essential and clearly within the scope of the authority granted to the Department of Transportation by the Legislature, in order that persons may engage in every phase of aeronautics with the least possible restriction consistent with the safety and the rights of others. A violation

of the act is a crime punishable by a fine of not more than \$1,000 or by imprisonment of not more than 6 months, or both.

Existing law establishes the Office of Emergency Services in the office of the Governor and makes the office responsible for the state's emergency and disaster response services for natural, technological, or manmade disasters and emergencies.

This bill would enact the State Remote Piloted Aircraft Act. The bill would establish conditions for operating remote piloted aircraft, including the procurement of liability insurance. The bill would authorize the department to adopt ~~reasonable~~ rules and regulations governing the conditions under which remote piloted aircraft may be operated for the purpose of protecting and ensuring the general public interest and safety and the safety of persons operating remote piloted aircraft. The bill would authorize the Office of Emergency Services to adopt ~~reasonable~~ rules and regulations and to make and amend general or special rules, orders, and procedures with respect to operating a remote piloted aircraft in certain circumstances, including operating a remote piloted aircraft within 500 feet of critical infrastructure.

The bill would authorize the department to make and amend general or special rules, orders, and procedures, and establish minimum standards consistent with the act as it deems necessary, to assist political subdivisions and their law enforcement agencies, and to enter into any contracts necessary to the execution of its powers pursuant to the act, as specified. The bill would provide that a person or entity injured or aggrieved by any procedure or action of the department with respect to remote piloted aeronautics may appeal to the California Transportation Commission for relief, as specified. The bill would provide that remedies provided by the act are cumulative with any other remedies available under law. The bill would provide that the provisions of the act are severable. The bill would make a violation of the act or any rule or order issued pursuant to the act punishable in the same manner as a violation of the State Aeronautics Act, except as provided, which would make violations subject to criminal penalties.

Because the bill would create new crimes, the bill would impose a state-mandated local program.

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.

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

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

1 SECTION 1. Section 21012 of the Public Utilities Code is
2 amended to read:

3 21012. "Aircraft" means any manned contrivance used or
4 designed for navigation of, or flight in, the air requiring
5 certification and registration as prescribed by federal statute or
6 regulation. Notwithstanding the foregoing provisions of this
7 section, manned lighter-than-air balloons and ultralight vehicles
8 as defined in the regulations of the Federal Aviation Administration
9 (14 C.F.R. Part 103), whether or not certificated by the Federal
10 Aviation Administration, shall not be considered to be aircraft for
11 purposes of this part. "Aircraft" does not include remote piloted
12 aircraft, as defined in Section 21753.

13 SEC. 2. Part 1.5 (commencing with Section 21750) is added
14 to Division 9 of the Public Utilities Code, to read:

15

16 PART 1.5. STATE REMOTE PILOTED AIRCRAFT ACT

17

18 21750. This part may be cited as the "State Remote Piloted
19 Aircraft Act."

20 21751. The purpose of this part is to further and protect the
21 public interest in remote piloted aircraft by all of the following
22 means:

23 (a) Encouraging the development and general use of remote
24 piloted aircraft.

25 (b) Fostering and promoting safety in remote piloted aeronautics.

26 (c) Preserving the fundamental right to privacy.

27 (d) Protecting the security of critical infrastructure.

28 (e) Protecting California's natural resources.

29 (f) Encouraging the use of remote piloted aircraft for
30 newsgathering in a manner consistent with the fundamental right
31 to privacy.

32 (g) Granting to a state agency powers, and imposing upon it
33 duties, so that the state may properly perform its functions relative
34 to remote piloted aeronautics and effectively exercise its
35 jurisdiction over persons and property.

- 1 (h) Effecting, where feasible and consistent with the policies of
- 2 this state, uniformity with federal aeronautics laws and regulations.
- 3 (i) Establishing only those regulations that are essential and
- 4 clearly within the scope of the authority granted by the Legislature,
- 5 in order that persons may engage in every phase of remote piloted
- 6 aeronautics with the least possible restriction consistent with the
- 7 safety and the rights of others.
- 8 21752. (a) Unless the context otherwise requires, the
- 9 definitions and general provisions set forth in this part govern the
- 10 construction of this part.
- 11 (b) This part shall not be construed as limiting any power of the
- 12 state or a political subdivision to regulate the operation of remote
- 13 piloted aircraft if the regulations do not conflict with the provisions
- 14 of this part.
- 15 (c) Except as specified, this part shall not be construed as
- 16 prohibiting, restricting, or permitting the prohibition of the take-off,
- 17 operation, or landing of remote piloted aircraft.
- 18 21753. (a) "Aircraft" means any contrivance used or designed
- 19 for navigation of, or flight in, the air.
- 20 (b) "Airport" means any area of land or water that is used, or
- 21 intended for use, for the landing and take-off of aircraft, and any
- 22 appurtenant areas that are used, or intended for use, for airport
- 23 buildings or other airport facilities or rights-of-way, and all airport
- 24 buildings and facilities located thereon.
- 25 (c) "Critical infrastructure" means systems and assets so vital
- 26 to the state that the incapacity or destruction of those systems or
- 27 assets would have a debilitating impact on security, economic
- 28 security, public health and safety, or any combination of those
- 29 matters.
- 30 (d) "Department" means the Department of Transportation.
- 31 (e) "Heliport" means any area of land, water, or structure used,
- 32 or intended for use, for the landing and take-off of helicopters, and
- 33 any appurtenant areas that are used, or intended for use, for heliport
- 34 buildings or other heliport facilities or rights-of-way, and all
- 35 heliport buildings and facilities located thereon.
- 36 (f) "Operation of remote piloted aircraft" or "operate remote
- 37 piloted aircraft" means the use, navigation, or piloting of remote
- 38 piloted aircraft in the airspace over the land or waters of this state.
- 39 (g) "Person" means any individual, firm, partnership,
- 40 corporation, limited liability company, company, association, joint

1 stock association, or body politic; and includes any trustee,
2 receiver, assignee, or other similar representative.

3 (h) “Pilot” means the person in command of a remote piloted
4 aircraft while underway.

5 (i) “Political subdivision” means any county, city, city and
6 county, public corporation, district, or other political entity or
7 public corporation of this state.

8 (j) “Remote piloted aircraft” means an aircraft that is operated
9 without the possibility of direct human intervention from within
10 or on the aircraft.

11 (k) “Remote piloted aircraft system” means a remote piloted
12 aircraft and its associated elements, including communication
13 links, that are required for the pilot to control the remote piloted
14 aircraft.

15 21754. A person shall not operate a remote piloted aircraft in
16 any of the following circumstances:

17 (a) (1) Within 500 feet of critical infrastructure designated by
18 *rule or regulation* by the Office of Emergency Services without
19 first obtaining the consent of the owner or operator of the critical
20 infrastructure.

21 (2) *This subdivision shall not apply to the operation of a remote*
22 *piloted aircraft by any person that the Federal Aviation*
23 *Administration authorizes to operate a remote piloted aircraft for*
24 *a commercial purpose or by any person described in Section 1070*
25 *of the Evidence Code engaged in gathering, receiving, or*
26 *processing information for communication to the public if all of*
27 *the following conditions that are applicable are met:*

28 (A) *If the person is authorized by the Federal Aviation*
29 *Administration to operate a remote piloted aircraft for a*
30 *commercial purpose, the person operates the remote piloted*
31 *aircraft in a manner that complies with the authorization.*

32 (B) *The operation of the remote piloted aircraft does not*
33 *interfere with the operation of the critical infrastructure.*

34 (C) *The operation of the remote piloted aircraft does not pose*
35 *a threat to the safety or security of the critical infrastructure.*

36 (b) Within 1,000 feet of a heliport without first obtaining the
37 consent of the owner or operator of the heliport, or without first
38 obtaining a waiver, exemption, or other authorization for its
39 operation from the Federal Aviation Administration.

1 (c) Within five miles of an airport without first obtaining the
2 consent of the owner or operator of the airport, or without first
3 obtaining a waiver, exemption, or other authorization for its
4 operation from the Federal Aviation Administration.

5 (d) Within any other area where the department or the Office
6 of Emergency Services, through ~~reasonable~~ rule or regulation,
7 determines that unrestricted use of remote piloted aircraft presents
8 an imminent danger to public health and safety.

9 21755. A person shall not operate a remote piloted aircraft in
10 any of the following circumstances:

11 (a) Within the airspace overlaying units of the state park system,
12 unless the operator of the remote piloted aircraft has obtained a
13 permit authorizing the use of that aircraft in that airspace or the
14 unit of the state park system over which the remote piloted aircraft
15 is used has, by rule or regulation, authorized the launching, landing,
16 or operation of remote piloted aircraft.

17 (b) Within the airspace overlaying lands or waters managed by
18 the Department of Fish and Wildlife, unless the operator of the
19 remote piloted aircraft has obtained a permit authorizing the use
20 of that aircraft in that airspace or the Department of Fish and
21 Wildlife has, by rule or regulation, authorized the launching,
22 landing, or operation of remote piloted aircraft over those lands
23 or waters.

24 (c) (1) Within 500 feet of the State Capitol or other building
25 housing the state legislative offices and chambers, situated in the
26 area bounded by 10th, L, 15th, and N Streets in the City of
27 Sacramento, unless the operator of the remote piloted aircraft has
28 obtained a permit authorizing the use of that aircraft within 500
29 feet of the building or the Department of the California Highway
30 Patrol has, by rule or regulation, authorized the launching, landing,
31 or operation of remote piloted aircraft within 500 feet of the
32 building.

33 (2) *This subdivision shall not apply to the operation of a remote*
34 *piloted aircraft by any person that the Federal Aviation*
35 *Administration authorizes to operate a remote piloted aircraft for*
36 *a commercial purpose or by any person described in Section 1070*
37 *of the Evidence Code engaged in gathering, receiving, or*
38 *processing information for communication to the public if all of*
39 *the following conditions that are applicable are met:*

1 (A) *If the person is authorized by the Federal Aviation*
2 *Administration to operate a remote piloted aircraft for a*
3 *commercial purpose, the person operates the remote piloted*
4 *aircraft in a manner that complies with the authorization.*

5 (B) *The operation of the remote piloted aircraft does not*
6 *interfere with the operation of the State Capitol.*

7 (C) *The operation of the remote piloted aircraft does not pose*
8 *a threat to the safety or security of the State Capitol.*

9 21756. Notwithstanding Sections 21754 and 21755, a person
10 may operate a remote piloted aircraft in any of the following
11 circumstances:

12 (a) In any airspace designated for the taking off or landing of
13 aircraft at an airport or heliport when the operator of the remote
14 piloted aircraft is both authorized to and engaged in taking off
15 from or landing at that airport or heliport.

16 (b) Upon or above any property to which the operator of the
17 remote piloted aircraft has a right of entry, ~~including a remote~~
18 ~~piloted aircraft operated under the direction of a duly authorized~~
19 ~~representative of a news service, newspaper, or radio or television~~
20 ~~station or network in a closed area pursuant to subdivision (d) of~~
21 ~~Section 409.5 of the Penal Code.~~ *entry.*

22 (c) Upon or above any property for which ~~the operator of the~~
23 ~~the operation of a~~ remote piloted aircraft has ~~received a permit~~
24 ~~from~~ *been permitted by* the California Film Commission pursuant
25 to the Motion Picture, Television, and Commercial Industries Act
26 of 1984 (Chapter 1 (commencing with Section 14998) of Part 5.7
27 of Division 3 of Title 2 of the Government Code), provided the
28 operator *of the remote piloted aircraft operates the aircraft*
29 *pursuant to the permit and adheres to all terms and conditions*
30 *specified in the permit.*

31 (d) In any location or airspace deemed necessary by the operator
32 of the remote piloted aircraft to avoid imminent danger to the life
33 and safety of another person or to the public at large.

34 21757. A person shall not weaponize a remote piloted aircraft
35 or operate a weaponized remote piloted aircraft.

36 21758. (a) A person shall not operate a remote piloted aircraft
37 in any of the following manners:

38 (1) In a manner that interferes with manned aircraft.

39 (2) In a manner that is prohibited by any federal statute or
40 regulation governing aeronautics.

1 (3) In a careless or reckless manner so as to endanger the life
2 or property of another.

3 (4) In a manner that ~~substantially and unreasonably interferes~~
4 ~~with the comfortable enjoyment of private property.~~ *constitutes a*
5 *nuisance under Section 3479 of the Civil Code.*

6 (5) In a manner that violates an individual's ~~fundamental right~~
7 ~~to privacy.~~ *privacy under Section 1 of Article I of the California*
8 *Constitution.*

9 (6) ~~Within the immediate reaches of the enveloping atmosphere~~
10 ~~of private property without first obtaining the consent of the owner~~
11 ~~or lawful occupant of the property.~~

12 (6) *In a manner that constitutes trespass under California law.*

13 (b) A remotely piloted aircraft shall always give way to manned
14 aircraft.

15 21759. A person shall not operate a remote piloted aircraft in
16 this state without first complying with all licensing, registration,
17 and marking requirements required by the Federal Aviation
18 Administration.

19 21760. (a) Every commercial operator of a remote piloted
20 aircraft shall procure, and continue in effect so long as the
21 commercial operator continues to offer services for compensation,
22 adequate protection against liability imposed by law upon operators
23 of remote piloted aircraft.

24 (b) Any person using, operating, or renting a remote piloted
25 aircraft with the permission, expressed or implied, of a commercial
26 operator shall also procure adequate protection against liability
27 imposed by law for the payment of damages for personal bodily
28 injuries, including death resulting therefrom, and property damage
29 as a result of an accident involving the remote piloted aircraft.

30 (c) The department shall, after a public hearing, establish the
31 amount of liability insurance, required by this section, that is
32 reasonably necessary to provide adequate compensation for
33 damages incurred through an accident involving a commercial
34 operator of a remote piloted aircraft.

35 21761. (a) Consistent with the provisions of this part, the
36 department may adopt ~~reasonable~~ rules and regulations governing
37 the conditions under which remote piloted aircraft may be operated
38 for the purpose of protecting and ensuring the general public
39 interest and safety and the safety of persons operating remote
40 piloted aircraft.

1 (b) The department may make and amend general or special
2 rules, orders, and procedures, and establish minimum standards
3 consistent with this part as it deems necessary to administer this
4 part.

5 (c) In exercising authority under this part, the department shall
6 cooperate with and assist the federal government, political
7 subdivisions of this state, and others in the development of remote
8 piloted aeronautics, and shall seek to coordinate activities whenever
9 feasible.

10 (d) The department shall keep on file with the Secretary of State,
11 and at its principal office, a copy of all its rules and regulations,
12 adopted pursuant to this part, for public inspection.

13 (e) The department shall provide for the publication and general
14 distribution of all its orders, rules, regulations, and procedures
15 having general effect that are applicable to remote piloted aircraft.

16 21762. (a) The Office of Emergency Services may adopt
17 reasonable rules and regulations, and may make and amend general
18 or special rules, orders, and procedures, as it deems necessary to
19 administer subdivisions (a) and (d) of Section 21754.

20 (b) In exercising authority under this part, the Office of
21 Emergency Services shall coordinate activities with the federal
22 government and political subdivisions of this state whenever
23 feasible.

24 (c) The Office of Emergency Services shall keep on file with
25 the Secretary of State, and at its principal office, a copy of all its
26 rules and regulations, adopted pursuant to this part, for public
27 inspection, and shall provide for the publication and general
28 distribution of all its orders, rules, regulations, and procedures
29 having general effect that are applicable to remote piloted aircraft.

30 21763. The department may do all of the following:

31 (a) Represent the state in remote piloted aeronautical matters
32 before federal and other agencies.

33 (b) Participate as plaintiff or defendant or as intervenor on behalf
34 of the state or any political subdivision or citizen in any controversy
35 that involves the interest of the state in remote piloted aeronautics.

36 (c) Assist political subdivisions and their law enforcement
37 agencies in becoming acquainted with and enforcing regulations
38 promulgated under this part.

39 (d) Enter into any contracts necessary to the execution of its
40 powers under this part. All contracts made by the department,

1 either as the agent of the state or as the agent of any political
2 subdivision, shall be made pursuant to the laws of the state
3 governing the making of like contracts.

4 (e) Exercise any of its powers under this part in cooperation
5 with any political subdivision, state agency, other states or their
6 political subdivisions, or the United States.

7 (f) Enforce this part and rules and orders issued under this part
8 in the name of the state by injunction or other legal process in the
9 federal, state, and local courts of this state or pursuant to any
10 federal, state, or local administrative hearing.

11 21764. (a) Except as provided in this section, a violation of
12 any provision of this part or any rule or order issued pursuant to
13 this part shall be punishable in the same manner provided for in
14 the State Aeronautics Act (Part 1 (commencing with Section
15 21001)).

16 (b) A violation of subdivision (a) of Section 21755 shall be
17 punishable in the same manner provided for in Section 5008 of
18 the Public Resources Code, and the Department of Parks and
19 Recreation shall have exclusive jurisdiction to enforce this
20 provision.

21 (c) A violation of subdivision (b) of Section 21755 shall be
22 punishable in the same manner provided for in Section 12000 of
23 the Fish and Game Code, and the Department of Fish and Wildlife
24 shall have exclusive jurisdiction to enforce this provision.

25 (d) A violation of subdivision (c) of Section 21755 shall be
26 punishable in the same manner provided for in Section 14685 of
27 the Government Code, and the Department of the California
28 Highway Patrol shall have exclusive jurisdiction to enforce this
29 provision.

30 21765. A person or entity injured or aggrieved by any
31 procedure or action of the department with respect to remote piloted
32 aeronautics may appeal to the California Transportation
33 Commission for relief, and the decision of the commission as to
34 that matter shall, after an evidentiary hearing, be conclusive, and
35 subject to review pursuant to Chapter 4.5 (commencing with
36 Section 11400) of Part 1 of Division 3 of Title 2 of the Government
37 Code.

38 21766. Nothing in this part shall be construed to impair or
39 impede any other rights, causes of action, claims, or defenses

1 available under other laws. The remedies provided in this part are
2 cumulative with any other remedies available under other laws.

3 21767. The provisions of this part are severable. If any
4 provision of this part or its application is held to be invalid, that
5 invalidity shall not affect other provisions or applications that can
6 be given effect without the invalid provision or application.

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

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