

Commercial Drone Proposal

Section 1. Short Title

Section 2. Definitions

Section 3. Federal Aviation Administration Updates To Navigable Airspace

- Would amend the U.S. Code to exclude the term “navigable airspace” from applying to the regulation of civil drones operating within 200 feet above ground level.
- Would require the FAA to conduct a rulemaking proceeding to update the definition of “navigable airspace.” Within this rulemaking, the FAA would be required to do the following:
 - Designate the area between 200ft and 400ft above ground level for the use of civil drones under the authority of the FAA, and
 - Allow for this area to be used by both recreational and commercial drone operators.
- Would clarify that nothing in this section prohibits the FAA from issuing rules for the operation of drones above 400ft.

Section 4. Preservation of State, Local, and Tribal Authorities With Respect to Civil Unmanned Aircraft Systems.

- Would establish the Sense of Congress that:
 - In order for landowners to have full enjoyment and use of their land, they must have exclusive control of the immediate reaches of airspace over their property.
 - The States possess sovereign police powers, which includes the power to regulate land use, protect property rights, and exercise zoning authority.
 - The Federal Government lacks the authority to intrude upon a State’s sovereign right to exercise reasonable time, manner, and place regulations within the immediate of reaches of airspace.
- Would require the FAA to ensure that the authority of a State, local, or Tribal government (State) is not prohibited from issuing reasonable restrictions on the time, manner, and place of operation below 200ft above ground level.
- Would clarify that nothing in this section allows a state government from issuing restrictions (or a combination thereof) that would create a significant safety hazard in the national airspace system.

Section 5. Preservation of Local Zoning Authority for Unmanned Aircraft Take-Off and Landing Zones

- Would ensure that state governments have authority to make decisions regarding the designation, placement, construction, or modification of commercial drone take-off and landing zones. However, states would be:
 - Prohibited from unreasonably discriminating between commercial drone operators
 - Prohibited from banning (or having the effect thereof) a commercial operator from operating a drone.
 - Required to act on a request to designate an area for a commercial drone take-off and landing zone within 60 days.
 - When a request is denied, required to provide (1) the substantial evidence that serves as the basis for denying the request, and (2) recommendations for how the commercial operator can address the reasons for denial.
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- Free to charge fees for considering the application of a commercial drone take-off and landing zone as long as the fee is: (1) competitively neutral, technologically neutral, and nondiscriminatory, and (2) publicly disclosed.
- Any person aggrieved by a state’s zoning decisions would have access to expedited judicial review in a court of competent jurisdiction.
- This section would take effect 180 days after the FAA finishes their rulemaking required in Section 3 of this bill.

Section 6. Preemption of Certain State Regulations

- Would prohibit a state from enforcing any rule or standard that “unreasonably or substantially impedes”:
 - The ascent or descent of a commercial drone to or from the navigable airspace in furtherance of a commercial activity.
 - A civil drone from reaching the navigable airspace (200 feet above ground level) where operations are permitted.
- “Unreasonably or substantially impeding” would include: (1) a complete and total ban on overflights of drones within a state’s airspace, and (2) a combination of prohibitions or restrictions that makes it “nearly impossible” for drones to reach the navigable airspace.
- Would clarify that this section does not prohibit a state from prescribing emergency procedures for a civil drone that is descending into the state’s airspace.

Section 7. Rules of Construction

- Would clarify that nothing in this act “diminishes or expands the preemptive effect” of the FAA with respect to manned aviation and that nothing in this act prohibits the FAA from pursuing enforcement actions against persons operating civil drones who endanger the safety of the national airspace system.