



SMALL UAV
COALITION
*A Partnership for
Safety & Innovation*

June 18, 2018

Honorable Ed Chau
Chair, Privacy and Consumer Protection Committee
California State Assembly
1020 N Street, Room 156A
Sacramento, CA 95814

Re: SB 347 – State Remote Piloted Aircraft Act – Small UAV Coalition Opposition

Dear Chair Chau and Committee Members:

The Small UAV Coalition¹ writes in opposition to SB 347, the State Remote Piloted Aircraft Act, which is to be considered in Committee this week, and endorses the comments in opposition submitted by the Consumer Technology Association in a June 11 letter. The Coalition specifically objects to section 21758, which would appear to delegate unfettered authority to the California Department of Transportation (“the Department”) to regulate unmanned aircraft and unmanned aircraft remote pilots and operators. The Coalition also opposes providing a State penalty for operations in violation Federal law because it is unfair to punish an operator twice for the same offense. Further, the Coalition believes that any insurance requirement should be imposed by the Federal government.

Subsection 21758(a) would authorize the Department to adopt rules “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.” Subsection (b) would authorize the Department to establish “minimum standards,” echoing the precise grant of authority from the United States Congress to the Federal Aviation Administration (FAA) over manned aircraft(see 49 U.S.C. 44701) and duplicating the authority Congress granted to the FAA in Public Law No. 112-95, the Federal Aviation Modernization and Reform Act of 2012. Any exercise of this broad, non-specific authority would likely interfere with the FAA’s plenary authority over the certification and regulation of unmanned aircraft, remote pilots, and commercial operators, as well as the national airspace system (NAS).

Several provisions in section 21755 make illegal under California law operations that are currently illegal under Federal law and are unnecessarily duplicative. Some prohibitions replicate Federal law (operating in “a careless or reckless manner so as to endanger the life or property of another”);

¹ Members of the Small UAV Coalition include AirMap, AGI, Amazon Prime Air, Flirtey, Fresh Air Educators, Google (x) Project Wing, Intel, Kespry, PrecisionHawk, T-Mobile, and Verizon.

and another prohibition covers any operation “that is prohibited by any federal statute or regulation governing aeronautics.” Section 21759 provides for a civil penalty and imprisonment in a county jail not to exceed six months. Congress has carefully set out the sanctions for violations of the Federal Aviation Act and regulations promulgated thereunder (see 49 U.S.C. 46301). Providing for State punishment, in addition to Federal punishment, for the same conduct raises serious questions about due process under the 14th Amendment to the U.S. Constitution. The Coalition also objects to making a regulatory violation (with no requirement that the conduct be knowing and willful) a crime punishable by jail when the Federal government provides only a civil penalty.

Subsection 21757(b) provides that a remote piloted aircraft shall always give way to manned aircraft. While this provision appears consistent with current Part 107 of the Federal Aviation Regulations (14 C.F.R. 107.37), it in fact is not as specific and clear as the Federal regulation. Moreover, the FAA’s recently published Concept of Operations for an Unmanned Air Traffic Management System (UTM) provides that low altitude manned aircraft operators share separation responsibilities with unmanned aircraft operators for operations beyond the visual line of sight of the pilot. In any event, this subsection is a rule governing the operation of unmanned aircraft, a subject entrusted to the authority of the FAA.

In December 2015, the FAA published a Fact Sheet urging State and local governments to consult with the FAA before enacting provisions like section 21755 and 21758 that clearly intrude on the Federal domain. Before a vote on SB 347, the Coalition urges the Committee to ask the FAA to review this bill and to abide by the FAA’s guidance.

With respect to the requirement in section 21757 that a commercial operator must obtain liability insurance, in an amount to be determined by the Department, the Coalition notes that Congress has imposed an insurance requirement only on common carriers, not on all commercial aircraft operators (see 49 U.S.C. 41112, which applies only to “air transportation”). Non-common carriers carry insurance as a sound business practice, and the Coalition expects commercial drone operators will procure aircraft hull and third party liability insurance without the need of Federal or State legislation. If an insurance requirement were to be imposed on commercial drone operators, the Coalition believes it preferable that the Federal Government should impose a single set of requirements, so that operators are not subject to a myriad of varying State requirements that foster noncompliance, unintentional or otherwise.

Thank you for your consideration of these important concerns.

Sincerely,

