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Office of Research
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Office

H.B. 327
133rd General Assembly

Bill Analysis

Version: As Introduced

Primary Sponsor: Rep. Patton

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SUMMARY

- Prohibits a commercial entity from operating drones to deliver packages for business purposes, a violation of which is a fourth degree misdemeanor.

DETAILED ANALYSIS

Package delivery via drones – prohibition

The bill prohibits a commercial entity or its agent from operating an unmanned aerial vehicle (“drone”) to deliver a package for business purposes. The bill, however, does not restrict personal drone usage. A commercial entity includes a corporation, partnership, firm, sole proprietorship, or other entity engaged in business. An agent includes only an agent acting within the scope of the agent’s employment.¹

A commercial entity or a commercial entity’s agent that violates this offense is guilty of a fourth degree misdemeanor. This prohibition is a strict liability offense, meaning a prosecutor does not have to prove intent when prosecuting a commercial entity for violating this offense.²

Drone description

A drone is a powered, aerial vehicle to which all of the following apply:

- It does not carry a human operator and is operated without the possibility of direct human intervention from within or on the drone;
- It uses aerodynamic forces to provide lift;
- It can fly autonomously or be piloted remotely; and

¹ R.C. 4511.515(A)(1), (B), and (C).

² R.C. 4511.515(D).

4. It is either expendable or recoverable.

A drone does not include a satellite.³

COMMENT

Federal aviation law

The Federal Aviation Administration (FAA) regulates commercial drone usage. Anyone who wants to fly a drone for commercial purposes must qualify for a Part 107 license and get an FAA Remote Pilot Certificate. Doing so requires passing a TSA security check and a comprehensive exam and registering the drone with the FAA.⁴ A person who operates a drone for commercial purposes must do so in accordance with federal regulations, including abiding by weight restrictions (the drone cannot weigh more than 55 pounds), yielding the right of way to other aircraft, and keeping the drone in the pilot's field of vision during operation.⁵

The Supremacy Clause of the United States Constitution states that the laws of the United States are the "supreme law of the land."⁶ Generally, power not granted to the federal government is reserved to the states. But, in areas where the federal government has exercised its authority to regulate, state law may be preempted.

While the FAA's law governing commercial drone usage does not contain an express preemption provision, preemption also exists in other circumstances, such as when there is a conflict between federal and state law, when compliance with both is impossible, when there is an implicit barrier in federal law to state regulation, when federal law comprehensively occupies an entire field of regulation leaving no room for state law to supplement federal law, and when state law is an obstacle to the objectives of federal law.⁷

It is unclear whether any of the reasons for preemption exist with respect to H.B. 327. However, given the scope of federal regulation in this area, it is possible that the bill could face a Supremacy Clause challenge.

³ R.C. 4511.515(A)(2).

⁴ See https://www.faa.gov/uas/commercial_operators/.

⁵ https://www.faa.gov/uas/media/Part_107_Summary.pdf.

⁶ U.S. Constitution, Article VI, Clause 2.

⁷ *Arizona v. United States*, 567 U.S. 387, 388; 123 S.Ct 2492; 183 L.Ed.2d 351 (2012).

HISTORY

Action	Date
Introduced	08-28-19
