

January 2016

WHY IS THE GOVERNMENT INTERESTED IN MY DRONE?

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Everyone has heard of drones. Amazon is going to use them to deliver packages soon, right? What is a drone and what do individuals and businesses need to know about drone usage?

Drones are defined simply as an unmanned, powered aircraft that sustain flight through remote operation. The new drone regulations define three different types of drones – public, civil and model aircraft. A public drone is any aircraft owned or leased by the U.S. Government which is used for governmental purposes. A civil drone pertains to any aircraft that is not a public aircraft, and a model aircraft is any aircraft flown strictly for hobby or recreational use weighing 55 pounds or less. Knowing the type of drone you own will help determine whether you need to register your drone under new regulations.

The Federal Aviation Administration (“FAA”) Task Force recently issued new rules that will require nearly all drone owners to register their devices in a national database. The new rules, which went into effect December 21, are based largely on recommendations made by a task force commissioned by the FAA last month and apply to drones weighing between 250 grams and 55 pounds. The purpose of these rules is to establish requirements for registration and explain the registration process.

Essentially, every drone sold today is subject to the new registration requirements. Why is this important? Because owners will not be permitted to legally operate their drones until they have registered.

It appears that registering a drone will be quite simple. A drone owner will provide their name/address to the FAA in exchange for a registration number. The FAA will then send the owner an electronic certificate of registration. The registration number must be affixed to the aircraft. Drone users will also be required to have their registration certificate on them when they are flying their drone (can you say “license to drone”)? Individual recreational users who owned a drone prior to December 21 will be required to register their device by February 19, while anyone who acquires a drone after December 21 will be required to register before their first flight. This time frame does not apply to commercial users, who must simply register their drone through the FAA’s old, paper-based application, before using their drone.

Registration isn’t free. Individual drone users must pay \$5 for a three-year certificate of registration, and only American citizens are allowed to register. Furthermore, registration applicants must be at least 13

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years old. Failing to register will result either in civil penalties which could reach upwards of \$27,500 in fines, criminal penalties of up to \$250,000 or up to three years of imprisonment!

A technicality that must be noted is that the FAA categorizes drones as aircraft and thus the airspace requirements for aircraft apply to drones. Section 333 of the FAA Modernization and Reform Act of 2012 (FMRA) grants the Secretary of Transportation the authority to determine, on a case-by-case basis, whether a drone is permitted to use U.S. airspace. Commercial drone operators will need to apply for and receive a Section 333 exemption from the FAA. In other words, if you want to fly a drone in the U.S., and you would like to make money with your drone, you must first obtain a Section 333 exemption.

So, we come full circle... why is the government interested in my drone? Well, for starters, the Consumer Electronics Association predicted a dramatic end to 2015, a year that saw drone sales increase more than 60% from last year. Drone revenues are also expected to top \$100 million this year. But, with increased popularity comes increased potential for problems. A growing number of incidents involving drones have been reported, including drones crashing at sporting events, interfering with emergency response teams, and even reports of drones falling out of the sky and injuring people. While the FAA has responded with its "Know Before You Fly" campaign, which created guidelines such as requiring drones to be flown under 400 feet or mandating that drones never be flown over stadiums, near crowds or near other aircraft, these guidelines have largely fallen on deaf ears.

Perhaps even more alarming are the privacy concerns that arise with increased drone use. Although many states have laws that address some of these concerns, i.e., peeping tom laws and private property laws, the FAA does not have an official policy for issues related to drone privacy. This affects all of us because drone users can see from vantage points that were previously inaccessible -- meaning potential privacy invasions like never before. Commercial industries can use drones to gather information at lower cost than older aerial technologies and many drones are capable of persistent surveillance for much longer periods of time than older technology. For instance, some of the high-end models can operate as long as 48 straight hours and future models will likely be able to operate for weeks or even months without interruption. Moreover, many of the newer models can be linked to facial recognition software, the same software used by the FBI and the Department of Homeland Security to identify people.

The proliferation of drones and their ever-evolving capabilities make it inevitable that everyday citizens will have encounters that could lead to our privacy being seriously compromised. Allowing these devices to roam through our neighborhoods unregulated can present serious complications. Imagine, for instance, a company using a drone to secretly monitor you in your home in order to gather information on how to better market their product to you. And if that isn't worrisome enough, then ask: what happens to the information once it is collected? How exactly are commercial drone operators going to protect this sensitive information from hackers? Drone hacking, also known as spoofing, has already been proven to be a real problem. Reckless conduct is also an issue. Just last summer, a Connecticut teenager was able to fire a handgun remotely from his drone. While he wasn't charged criminally, the question remains whether he violated FAA regulations that prohibit the reckless operation of an aircraft.

The availability of drones has created a new and unique set of policy questions. Businesses must increasingly be aware of what they will be permitted to do and what they will be prohibited from doing in order to avoid liability. Because drone-related issues are uncharted territory, the federal government is going to have to make sure the laws are clear on some of these tricky new issues. Businesses and individuals will be tasked with understanding and abiding by these laws. This February, in the next legislative session, Connecticut will address the drones as weapons issue and the FAA and the federal government are scrambling to pass laws in order to make drone regulations more uniform. In other words, it may be a while before an Amazon drone delivers that new Kindle to your door.

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