

CAPITOL RESEARCH

● ● ● TRANSPORTATION POLICY

STATE LEGISLATIVE TRENDS: DRONES

Unmanned aircraft systems—commonly known as drones—have changed the landscape of public and private life. The many uses for drones include law enforcement surveillance, wildlife tracking, disaster response and recreation. For this reason, state governments have considered a diverse spread of policies aimed at defining, regulating and, in some cases, prohibiting the use of unmanned aircraft systems, or UAS, since 2013¹. Bills defining drones and establishing rules for their use are highly variable at the state level.

Federal Regulation

The Federal Aviation Administration, or FAA, loosely regulates drones at the federal level. Pursuant to the regulatory standards established by the FAA, drones used for recreational purposes must be registered and labeled with a registration number if the device is between .55 and 55 pounds.² The FAA requires recreational users to be at least 13 years old and restricts drone usage to U.S. citizens and legal permanent residents. For work and business use, the FAA requires individuals to be at least 16 years old and have passed an FAA-approved aeronautical test. The agency also requires drone operators to have been vetted by the Transportation Security Administration, or TSA, before using the devices for business. Additionally, for both recreational and business use, drone operators are further limited by the following operating rules:³

- Must keep the aircraft in sight (visual line of sight)
- Must fly under 400 feet
- Must fly during the day
- Must fly at or below 100 mph
- Must yield right of way to manned aircraft
- Must not fly over people
- Must not fly from a moving vehicle

State Legislation

Currently, 36 states have passed laws defining, limiting the use of, or authorizing research related to the development of drone technology.



State legislation often seeks to define and restrict drone usage in a variety of applications. For the purposes of this overview, the different types of drone legislation are being categorized into five broad categories. Below is a short description of the type of drone legislation being passed across the states by category with an accompanying example:

Category A: Legislation defines what a drone is and/or rules for owning one

A drone is, “An aircraft that is operated without direct human intervention from on or within the aircraft. The term does not include satellites.” (Montana, SB 196)

Category B: Legislation defines how drones can be used by law enforcement, state and local personnel

“A law enforcement agency may not use a drone to gather evidence or other information. This act does not prohibit the use of a drone to counter a high risk of a terrorist attack by a specific individual or

organization if the United States Secretary of Homeland Security determines that credible intelligence indicates that there is such a risk.” (Florida SB 92)

Category C: Legislation defines how drones can be used by the general public (including crime and punishment for misuse)

“An individual who is required to register as a sex offender under the sex offenders registration act ... shall not operate an unmanned aerial system to knowingly and intentionally follow, contact, or capture images of another individual, if the individual’s sentence in a criminal case would prohibit the individual from following, contacting, or capturing the image of the other individual.” (Michigan, SB 992).

Category D: Legislation defines regulations for their use in hunting (including crime and punishment for misuse)

“No person shall use a drone or UAS with the intent to conduct video surveillance of private citizens who are lawfully hunting, fishing, or trapping without obtaining the written consent of the persons being surveilled prior to conducting the surveillance.” (New Hampshire, SB 222)

Category E: Legislation mandates—and possibly appropriates funds for—drone testing, monitoring, research and/or for drone operation training programs

In 2016, Tennessee amended its previous UAS legislation to clarify that it is permissible for a person to operate a drone “for purposes of professional or scholarly research and development by a person acting on behalf of a public or private institution of higher education.” (Tennessee, HB 2376)



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REFERECES

1 Alternative definitions of UAS/drones and a comprehensive record of UAS legislation by states going back to 2013 is kept by the National Conference of State Legislatures on their website: www.ncsl.org/research/transportation/current-unmanned-aircraft-state-law-landscape.aspx

2 Source: the official website of the Federal Aviation Administration of the U.S. Transportation Department; <https://www.faa.gov/uas/>

3 *ibid*

DRONE LEGISLATION TYPE

	A	B	C	D	E
Alabama					
Alaska	X	X			X
Arizona	X	X	X		
Arkansas	X	X	X		
California	X	X	X		
Colorado					
Connecticut					
Delaware	X	X	X		
Florida	X	X	X		
Georgia	X				X
Hawaii	X				X
Idaho	X	X	X	X	
Illinois	X	X		X	X
Indiana	X	X	X	X	
Iowa	X	X			
Kansas	X		X		X
Kentucky	X		X		
Louisiana	X	X	X		
Maine	X	X			
Maryland	X	X			X
Massachusetts					
Michigan	X	X	X	X	
Minnesota					
Mississippi	X		X		
Missouri					
Montana	X	X			
Nebraska					
Nevada	X	X	X		X
New Hampshire	X			X	
New Jersey					
New Mexico					
New York					
North Carolina	X	X	X	X	X
North Dakota	X	X	X		X
Ohio	X				X
Oklahoma	X		X		
Oregon	X	X	X	X	
Pennsylvania					
Rhode Island	X	X			
South Carolina					
South Dakota					
Tennessee	X	X	X	X	
Texas	X	X	X		
Utah	X	X	X		X
Vermont	X	X	X		
Virginia	X	X			X
Washington	X	X			X
West Virginia	X				X
Wisconsin	X	X	X	X	
Wyoming	X		X		

Source: Based on CSG search and analysis of state legislation in StateNet, March 2017