House Engrossed Senate Bill

FILED
MICHELE REAGAN
SECRETARY OF STATE

State of Arizona
Senate
Fifty-second Legislature
Second Regular Session
2016

CHAPTER 170

SENATE BILL 1449

AN ACT

AMENDING TITLE 13, CHAPTER 37, ARIZONA REVISED STATUTES, BY ADDING SECTION 13-3729; AMENDING SECTIONS 28-8242 AND 28-8280, ARIZONA REVISED STATUTES; RELATING TO UNMANNED AIRCRAFT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

Be it enacted by the Legislature of the State of Arizona:

Section 1. Title 13, chapter 37, Arizona Revised Statutes, is amended by adding section 13-3729, to read:

13-3729. Unlawful operation of model or unmanned aircraft; state preemption; classification; definitions

A. IT IS UNLAWFUL FOR A PERSON TO OPERATE A MODEL AIRCRAFT OR A CIVIL UNMANNED AIRCRAFT IF THE OPERATION:

1. IS PROHIBITED BY A FEDERAL LAW OR REGULATION THAT GOVERNS AERONAUTICS, INCLUDING FEDERAL AVIATION ADMINISTRATION REGULATIONS.

2. INTERFERES WITH A LAW ENFORCEMENT, FIREFIGHTER OR EMERGENCY SERVICES OPERATION.

B. IT IS UNLAWFUL FOR A PERSON TO OPERATE OR USE AN UNMANNED AIRCRAFT OR UNMANNED AIRCRAFT SYSTEM TO INTENTIONALLY PHOTOGRAPH OR LOITER OVER OR NEAR A CRITICAL FACILITY IN THE FURTHERANCE OF ANY CRIMINAL OFFENSE.

C. EXCEPT AS AUTHORIZED BY LAW, A CITY, TOWN OR COUNTY MAY NOT ENACT OR ADOPT ANY ORDINANCE, POLICY OR RULE THAT RELATES TO THE OWNERSHIP OR OPERATION OF AN UNMANNED AIRCRAFT OR UNMANNED AIRCRAFT SYSTEM OR OTHERWISE ENGAGE IN THE REGULATION OF THE OWNERSHIP OR OPERATION OF AN UNMANNED AIRCRAFT OR AN UNMANNED AIRCRAFT SYSTEM. ANY ORDINANCE, POLICY OR RULE THAT VIOLATES THIS SUBSECTION, WHETHER ENACTED OR ADOPTED BY THE CITY, TOWN OR COUNTY BEFORE OR AFTER THE EFFECTIVE DATE OF THIS SECTION, IS VOID.

D. THIS SECTION DOES NOT:

1. APPLY TO A PERSON OR ENTITY THAT IS AUTHORIZED OR ALLOWED BY THE FEDERAL AVIATION ADMINISTRATION TO OPERATE OR USE AN UNMANNED AIRCRAFT SYSTEM IF THE PERSON'S OR ENTITY'S OPERATION OR USE COMPLIES WITH THE AUTHORIZATION GRANTED TO THE PERSON OR ENTITY OR WITH FEDERAL AVIATION ADMINISTRATION RULES.

2. PROHIBIT A CITY, TOWN OR COUNTY FROM ENACTING OR ADOPTING ORDINANCES OR RULES ON THE OPERATION OR USE OF A PUBLIC UNMANNED AIRCRAFT THAT IS OWNED BY THE CITY, TOWN OR COUNTY.

3. PROHIBIT A CITY, TOWN OR COUNTY FROM ENACTING OR ADOPTING ORDINANCES OR RULES THAT REGULATE THE TAKEOFF OR LANDING OF A MODEL AIRCRAFT IN A PARK OR PRESERVE OWNED BY THE CITY, TOWN OR COUNTY IF:

(a) THERE ARE OTHER PARKS OR PRESERVES THAT ARE WITHIN THE CITY, TOWN OR COUNTY AND THAT ARE AVAILABLE FOR MODEL AIRCRAFT OPERATION.

(b) THE CITY, TOWN OR COUNTY ONLY HAS ONE PARK OR PRESERVE THAT IS WITHIN THE CITY, TOWN OR COUNTY.

4. APPLY TO THE OPERATION OF AN UNMANNED AIRCRAFT, INCLUDING A PUBLIC UNMANNED AIRCRAFT, BY A FIRST RESPONDER AS DEFINED IN SECTION 36-661 WHILE ACTING IN THE FIRST RESPONDER'S OFFICIAL CAPACITY OR AN EMERGENCY WORKER WHILE ENGAGED IN OR SUPPORTING AUTHORIZED EMERGENCY MANAGEMENT ACTIVITIES OR PERFORMING EMERGENCY FUNCTIONS PURSUANT TO TITLE 26, CHAPTER 2.

E. A VIOLATION OF SUBSECTION B OF THIS SECTION IS A CLASS 6 FELONY, EXCEPT THAT A SECOND OR SUBSEQUENT VIOLATION IS A CLASS 5 FELONY. A VIOLATION OF SUBSECTION A OF THIS SECTION IS A CLASS 1 MISDEMEANOR.

F. FOR THE PURPOSES OF THIS SECTION:

1. "CIVIL UNMANNED AIRCRAFT" MEANS AN UNMANNED AIRCRAFT OR UNMANNED AIRCRAFT SYSTEM THAT IS OPERATED BY A PERSON FOR ANY PURPOSE OTHER THAN STRICTLY FOR HOBBY OR RECREATIONAL PURPOSES, INCLUDING COMMERCIAL PURPOSES, OR IN FURTHERANCE OF OR INCIDENTAL TO ANY BUSINESS OR MEDIA SERVICE OR AGENCY.

2. "COMMERCIAL PURPOSES" MEANS THE USE OF AN UNMANNED AIRCRAFT IN RETURN FOR FINANCIAL COMPENSATION AND INCLUDES AERIAL PHOTOGRAPHY, AERIAL MAPPING OR GEOSPATIAL IMAGING.

3. "CRITICAL FACILITY" MEANS ANY OF THE FOLLOWING:

(a) A PETROLEUM OR ALUMINA REFINERY.

(b) A PETROLEUM, CHEMICAL OR RUBBER PRODUCTION, TRANSPORTATION, STORAGE OR PROCESSING FACILITY.

(c) A CHEMICAL MANUFACTURING FACILITY.

(d) A WATER OR WASTEWATER TREATMENT FACILITY AND WATER DEVELOPMENT, DISTRIBUTION OR CONVEYANCE SYSTEM, INCLUDING A DAM.

(e) AN ELECTRIC GENERATION FACILITY, AS DEFINED IN SECTION 42-14156, AND ANY ASSOCIATED SUBSTATION OR SWITCHYARD.

(f) AN ELECTRICAL TRANSMISSION OR DISTRIBUTION SUBSTATION.

(g) AN ELECTRICAL TRANSMISSION LINE OF AT LEAST SIXTY-NINE THOUSAND VOLTS.

(h) AN ELECTRONIC COMMUNICATION STATION OR TOWER.

(i) AN ENERGY CONTROL CENTER.

(j) A DISTRIBUTION OPERATING CENTER.

(k) A FACILITY THAT TRANSFERS OR DISTRIBUTES NATURAL GAS, INCLUDING A COMPRESSOR STATION, REGULATOR STATION, CITY GATE STATION OR PRESSURE LIMITING STATION OR A LIQUEFIED NATURAL GAS FACILITY OR SUPPLIER TAP FACILITY.

(l) ANY RAILROAD INFRASTRUCTURE OR FACILITY.

(m) A FEDERAL, STATE, COUNTY OR MUNICIPAL COURT.

(n) A PUBLIC SAFETY OR EMERGENCY OPERATION FACILITY.

(o) A FEDERAL, STATE, COUNTY OR MUNICIPAL JAIL OR PRISON OR OTHER FACILITY IN WHICH PERSONS ARE INCARCERATED.

(p) A FEDERAL OR STATE MILITARY INSTALLATION OR FACILITY.

(q) A HOSPITAL THAT RECEIVES AIR AMBULANCE SERVICES.

4. "MODEL AIRCRAFT" HAS THE SAME MEANING PRESCRIBED IN SECTION 336 OF THE FAA MODERNIZATION AND REFORM ACT OF 2012 (P.L. 112-95), AS AMENDED.

5. "PERSON" MEANS A CORPORATION, FIRM, PARTNERSHIP, ASSOCIATION, INDIVIDUAL OR ORGANIZATION OR ANY OTHER GROUP ACTING AS A UNIT.

6. "PUBLIC UNMANNED AIRCRAFT" MEANS AN UNMANNED AIRCRAFT OR UNMANNED AIRCRAFT SYSTEM THAT IS OPERATED BY A PUBLIC AGENCY FOR A GOVERNMENT-RELATED PURPOSE.

7. "UNMANNED AIRCRAFT" MEANS AN AIRCRAFT, INCLUDING AN AIRCRAFT COMMONLY KNOWN AS A DRONE, THAT IS OPERATED WITHOUT THE POSSIBILITY OF DIRECT HUMAN INTERVENTION FROM WITHIN OR ON THE AIRCRAFT.

8. "UNMANNED AIRCRAFT SYSTEM" MEANS AN UNMANNED AIRCRAFT AND ASSOCIATED ELEMENTS, INCLUDING ANY COMMUNICATION LINKS AND COMPONENTS THAT CONTROL THE UNMANNED AIRCRAFT.

Sec. 2. Section 28-8242, Arizona Revised Statutes, is amended to read:

28-8242. Powers and duties

A. The department:

1. Shall cooperate with all state, local and federal organizations to encourage and advance the safe and orderly development of aviation in this state.

2. May:

(a) Assemble and distribute to the public information relating to aviation, landing fields, navigational aids and other matters pertaining to aviation.

(b) Accept, in the name of this state, federal monies made available for the advancement of aviation.

(c) Represent this state on issues of routing structures and rate schedules concerning commercial airline traffic.

(d) Accept and receive federal and other public or private monies for the acquisition, construction, enlargement, improvement, maintenance, equipment or operation of airports and other air navigation facilities and sites for air navigation facilities or for any other purpose authorized by this section. The department shall deposit, pursuant to sections 35-146 and 35-147, these monies in the state aviation fund.

(e) Facilitate the development of a regional airport.

(f) Loan monies from the state aviation fund to an airport authority that enters into an agreement with the United States for an airport development project if the airport authority designates in its agreement with the United States that payment of federal participating monies shall be made to the department acting as the agent of the airport authority and enters into an agreement with the department appointing the department as agent of the airport authority to receive all federal participating monies. The department shall deposit, pursuant to sections 35-146 and 35-147, all monies received pursuant to this subdivision in the state aviation fund. For the purposes of this subdivision, "airport authority" means the governing body of a public airport operating pursuant to sections 28-8423 and 28-8424 or a joint powers airport authority.

B. Notwithstanding section 38-623, the director may authorize personnel of the department to use rental aircraft in the performance of their duties at the prevailing hourly rate. The rental fee is a charge against monies appropriated for in-state and out-of-state travel.

C. The director shall adopt rules as necessary to administer this article and articles 1, 3, 4 and 5 of this chapter and to promote public safety and the best interests of aviation in this state. The rules shall not supersede or conflict with rules of the United States government agencies having jurisdiction over aviation activities in this state.

D. The director shall:

1. Contract for the operation of state owned airports.

2. In conjunction with local authorities, plan, build and develop airports, airport terminals and other related navigational facilities.

3. Operate and maintain the Grand Canyon national park airport located in the Kaibab national forest, Coconino county.

4. PROVIDE ON THE DEPARTMENT'S WEBSITE INFORMATION ON RESOURCES FOR OPERATING A MODEL AIRCRAFT, INCLUDING SAFETY GUIDELINES ESTABLISHED BY A NATIONWIDE AERONAUTICS COMMUNITY-BASED ORGANIZATION.

5. PROVIDE ON THE DEPARTMENT'S WEBSITE PICTURES THAT SHOW EXAMPLES OF CRITICAL FACILITIES, AS DEFINED IN SECTION 13-3729, TO PROVIDE UNMANNED AIRCRAFT OPERATORS WITH INFORMATION ON WHAT IS CONSIDERED A CRITICAL FACILITY. A PICTURE OR ANY WRITTEN DESCRIPTION ON THE WEBSITE MAY NOT IDENTIFY THE OWNER OR OPERATOR OF THE CRITICAL FACILITY OR THE LOCATION OF THE CRITICAL FACILITY.

Sec. 3. Section 28-8280, Arizona Revised Statutes, is amended to read:

28-8280. Careless or reckless aircraft operation; violation; classification; definitions

A. A person who operates an aircraft in the air, on the ground or on the water in a careless or reckless manner that endangers the life or property of another is guilty of a class 1 misdemeanor. In determining whether the operation was careless or reckless, the court shall consider the standards for safe operation of aircraft prescribed by federal statutes or regulations governing aeronautics.

B. FOR THE PURPOSES OF THIS SECTION:

1. "AIRCRAFT" INCLUDES A MODEL AIRCRAFT AND CIVIL UNMANNED AIRCRAFT.

2. "CIVIL UNMANNED AIRCRAFT" HAS THE SAME MEANING PRESCRIBED IN SECTION 13-3729.

3. "MODEL AIRCRAFT" HAS THE SAME MEANING PRESCRIBED IN SECTION 13-3729.

APPROVED BY THE GOVERNOR MAY 11, 2016.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 11, 2016.

Passed the House March 30, 2016,

by the following vote: 57 Ayes,

0 Nays, 3 Not Voting

Acting Speaker of the House
Pro Tempore

Jim Drake
Chief Clerk of the House

Passed the Senate March 3, 2016,

by the following vote: 29 Ayes,

1 Nays, 0 Not Voting

President of the Senate

Susan Aceves
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR
This Bill was received by the Governor this

_____ day of _____, 20____,

at _____ o'clock _____ M.

Secretary to the Governor

Approved this _____ day of

_____, 20_____,

at _____ o'clock _____ M.

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this _____ day of _____, 20____,

at _____ o'clock _____ M.

Secretary of State

S.B. 1449

SENATE CONCURS IN HOUSE
AMENDMENTS AND FINAL PASSAGE

Passed the Senate May 4, 2016

by the following vote: 29 Ayes,

0 Nays, 1 Not Voting

President of the Senate

Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill received by the Governor this

4th day of May, 2016

at 4:26 o'clock P. M.

Secretary to the Governor

Approved this 11th day of

May

at 10:49 o'clock A. M.

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this 12 day of May, 2016

at 8:56 o'clock A M.

Secretary of State

S.B. 1449