

## Can Your Business Fly Under the Radar?

### *Navigating through the Laws Governing the Commercial Use of Drones*

The past few years have seen the utilization of unmanned aircraft systems (“UAS” or “drones”) expand from military to recreational, and now to commercial use. What once was top-secret military technology can now deliver a pizza (in select areas). Businesses across a wide range of industries have found that drones provide a cost effective, safer alternative to aerial imaging, surveillance, and equipment inspection. Now, drones can be fitted to carry industry-specific technology and payloads, such that they can assist in emergency detection and response. Particularly, in the energy and telecommunications industries, drones provide businesses with the ability to inspect their equipment and operations in real-time at precise angles.

This leads to the question: Can my business buy a drone and use it right away? In short, no.

The operation of drones for commercial use is a highly regulated area that can invoke federal regulations, and state and local laws. Unauthorized drone use has led to heavy penalties and criminal charges. The following is an overview of some of the pertinent rules and regulations that apply to drone operation.

#### **14 CFR Part 107**

Last year, the Federal Aviation Administration (“FAA”) released a set of comprehensive regulations that applies to drones that are 55 pounds or less. 14 CFR § 107.01, *et. seq.* See our prior alerts on the subject [HERE](#) and [HERE](#). These regulations detail the registration requirements and operating regulations for drones used for commercial purposes. Specifically, they set prohibitions on operation over human beings, in the vicinity of airports, sporting events, and limits operation to daylight hours by certified pilots. While these restrictions are comprehensive, they also allow for a deviation from certain regulations by obtaining a prior waiver.

#### **State and Local Law**

Although federal law preempts state and local regulation of aviation safety, this preemption does not apply to all aspects of drone operation. In addition to common law implications of nuisance, trespass, and negligence in operations, state legislatures are quickly adopting laws directed at drone operations. As of 2017, at least 38 states have considered legislation related to the local regulation of drone operations.

#### **Criminal Charges Can Result from Accidents in Connection with Otherwise Legitimate Uses of Drones**

While your business’s intended use of a drone is likely for a legitimate business purpose, even innocent use of drones has landed individuals in unfriendly skies this year:

- In Washington, a drone operator became the first pilot sentenced to jail time on reckless endangerment charges after his drone crashed and injured two people;
- In California, a drone operator was arrested earlier this year on charges of “impeding first responders” when his drone flew too close to police helicopters; and
- In New York City, drone operators were arrested this year on charges of criminal trespassing and reckless endangerment when their drones accidentally crashed into buildings.

On the ground, criminal charges were filed in Kentucky (but later dropped) against an individual for shooting down a drone.

Current laws do not provide a “one size fits all” method for commercial drone operation, and the future is upon us. The FAA estimates that by 2021, there could be 1.6 million commercial drones in the United States, up from around 4,200 at the end of 2016. With such a dramatic increase, federal regulations and state law will certainly be amended and/or created to accommodate for the additional traffic in the sky.

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