

SHB 1093 - H AMD 9

By Representative Morris

WITHDRAWN 3/4/2015

1 Strike everything after the enacting clause and insert the  
2 following:

3 "NEW SECTION. **Sec. 1.** A new section is added to chapter 47.68  
4 RCW to read as follows:

5 (1) It is unlawful for a person to operate an unmanned aircraft  
6 in Washington without specific federal authorization unless the  
7 unmanned aircraft is labeled with the name and phone number of the  
8 unmanned aircraft's owner and operator.

9 (2) It is unlawful for an operator of an unmanned aircraft to,  
10 without specific federal authorization, fly the unmanned aircraft at  
11 a height of less than four hundred feet over real property lawfully  
12 owned or occupied by a person, other than a public agency, without  
13 the consent of a lawful owner or occupant of the real property.

14 (3) Any person who operates an unmanned aircraft in violation of  
15 subsection (1) or (2) of this section has committed a class 2 civil  
16 infraction punishable under chapter 7.80 RCW. The penalties provided  
17 in RCW 47.68.240 do not apply to this section.

18 (4) This section may be enforced by any law enforcement officer.

19 (5) The definitions in this subsection apply throughout this  
20 section unless the context clearly requires otherwise.

21 (a) "Law enforcement officer" means any general authority,  
22 limited authority, or specially commissioned Washington peace officer  
23 or federal peace officer, as those terms are defined in RCW  
24 10.93.020.

25 (b) "Public agency" has the same meaning as defined in RCW  
26 42.30.020.

27 (c) "Radio-controlled aircraft" means an aircraft with no human  
28 pilot on board that is entirely manually controlled using a hand-held  
29 radio transmitter and that is not capable of autonomous flight.

30 (d) "Specific federal authorization" means lawfully permitted  
31 under the federal aviation administration modernization and reform  
32 act of 2012, P.L. 112-95, as in effect on January 1, 2015, except  
33 that it does not include operation of an unmanned aircraft as

1 federally authorized under the special rule for model aircraft  
2 provided in section 336 of that act.

3 (e) "Unmanned aircraft" means an aircraft, other than a  
4 radio-controlled aircraft, with no human pilot on board.

5 NEW SECTION. **Sec. 2.** A new section is added to chapter 4.24 RCW  
6 to read as follows:

7 (1) Except as provided in subsection (2) of this section, a  
8 person who owns or lawfully occupies real property in this state may  
9 bring an action for trespass against any person, other than a public  
10 agency, who operates an unmanned aircraft that is flown at a height  
11 of less than four hundred feet over the real property if:

12 (a) The operator of the unmanned aircraft has flown the unmanned  
13 aircraft over the property at a height of less than four hundred feet  
14 on at least one previous occasion; and

15 (b) An owner or lawful occupant of the real property has notified  
16 the owner or operator of the unmanned aircraft that an owner or  
17 lawful occupant of the real property did not want the unmanned  
18 aircraft flown over the property at a height of less than four  
19 hundred feet.

20 (2) A person may not bring an action under this section if the  
21 unmanned aircraft is lawfully in the flight path for landing at an  
22 airport, airfield, or runway and the unmanned aircraft is lawfully in  
23 the process of taking off or landing, pursuant to specific federal  
24 authorization.

25 (3) In any action under subsection (1) of this section, a person  
26 may recover actual damages or elect to recover, without proof of  
27 special damages, the amount of five hundred dollars as liquidated  
28 damages. A person may be awarded injunctive relief in the action.

29 (4) A prevailing plaintiff is entitled to recover reasonable  
30 attorneys' fees and legal expenses. These expenses are not confined  
31 to the costs allowed under RCW 4.84.010.

32 (5) The definitions in this subsection apply throughout this  
33 section unless the context clearly requires otherwise.

34 (a) "Public agency" has the same meaning as defined in RCW  
35 42.30.020.

36 (b) "Radio-controlled aircraft" means an aircraft with no human  
37 pilot on board that is entirely manually controlled using a hand-held  
38 radio transmitter and that is not capable of autonomous flight.

1 (c) "Specific federal authorization" means lawfully permitted  
2 under the federal aviation administration modernization and reform  
3 act of 2012, P.L. 112-95, as in effect on January 1, 2015, except  
4 that it does not include operation of an unmanned aircraft as  
5 federally authorized under the special rule for model aircraft  
6 provided in section 336 of that act.

7 (d) "Unmanned aircraft" means an aircraft, other than a  
8 radio-controlled aircraft, with no human pilot on board."

9 Correct the title.

EFFECT: (1) Retains the requirement that an unmanned aircraft be labeled with the name and contact information of the aircraft's owner and operator, but provides that violation of the labeling requirement is a class 2 civil infraction, subject to a maximum fine of \$250, rather than making it a criminal misdemeanor.

(2) Modifies the definition of "unmanned aircraft" to exclude aircraft that are entirely manually controlled using a hand-held radio transmitter and not capable of autonomous flight.

(3) Excuses from compliance with state law requirements operations lawfully permitted under any provision of the FAA Modernization and Reform Act ("act"), except for operations exempt from federal regulation under the "Special Rule for Model Aircraft" in section 336 of the act.

(4) Provides that a person who operates an unmanned aircraft at a height of less than 400 feet over real property, without consent of a lawful owner or occupant of the real property or specific federal authorization, has committed a class 2 civil infraction.

(5) Removes the provisions that:

(a) Prohibited operation of an unmanned aircraft in Washington airspace if the unmanned aircraft has an active sensory device onboard that collects personal information about any individual without the individual's consent;

(b) Established a private right of action for an individual whose reasonable expectation of privacy is violated by the use of an unmanned aircraft equipped with an active sensing device;

(c) Stated that the bill shall not be construed as authorizing the use of, prohibiting the use of, or regulating in any manner the use of an unmanned aircraft by a public agency; and

(d) Established a criminal penalty for violation with intent to capture any type of personal information for an illicit purpose.

(6) Provides a civil action for trespass for a person who owns or lawfully occupies real property in this state, against any person, other than a public agency, who flies an unmanned aircraft less than 400 feet over the property, if the person had previously informed the operator of the aircraft that the person did not consent to such operation.

(a) Does not allow the civil action for trespass if the unmanned aircraft is lawfully in the flight path for landing at an airport, airfield, or runway and is in the process of taking off or landing, pursuant to specific federal authorization;

(b) Allows a successful plaintiff in the civil action to recover actual damages of liquidated damages of \$500 and attorneys' fees and expenses; and

(c) Allows a plaintiff to obtain a court order to prevent such trespass.

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