



WHITEFOX

1241 Johnson Ave. Suite 237 || San Luis Obispo, CA || (805) 250-9691

October 24, 2018

Anita Ramasastry
President, Uniform Law Commission
111 N. Wabash Avenue, Suite 1010
Chicago, IL 60602

Dear President Ramasastry,

WhiteFox Defense writes to express its deep concerns over the draft tort legislation offered by the Uniform Law Commission (ULC or the Commission), titled the "Tort Law Relating to Drones Act." As an airspace management company, we are keenly interested in streamlining the public adoption of drones and we recognize efforts are required to assuage widespread and reasonable fears on the part of the public that could serve to foment misunderstanding and inhibit adoption.

We find it plausible that, as ULC says, property owners could suffer from the nuisance of drone flights and anxiety over the invasion of privacy. In turn, UAV pilots would suffer from the resulting public backlash. We believe a robust, creative, and multi-pronged solution is in order: including technological innovation, cultural change and, when appropriate, regulation. For example, innovations in UAS traffic management and remote ID are critical parts of the effort to integrate drones into the national airspace, as are regulatory and legislative reform that clarify responsibility for drone operators and protect reasonable public interests in security and privacy.

However, we are in broad agreement with the letter signed by other associations and companies involved in the unmanned aircraft industry dated 10/17/18. In particular, we are concerned that the bill, as written, would increase litigation rather than reduce it, would shift the burden of proof to drone operators, and eviscerate the social and commercial benefits of drones. More specific concerns follow:

"Per Se" Aerial Trespass

Businesses and homeowners have a reasonable right to ensure that their property is safe from trespass, especially that which is disruptive, interferes with their use or enjoyment of the land, and which could be linked to suspicious surveillance.

However, we stress that the moral entitlements of a person to the enjoyment of their land (i.e. the grounds for their reasonable complaint against trespass) are technologically contextual: they depend on changes in technology that is available and in widespread use. While drones push outward the sphere of activities about which a homeowner could express concern, those worries are miniscule when compared to the disruptions caused by overflights from traditional aircraft. We thus believe that the creation of a new doctrine around aerial trespass for drones is ill-informed.



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We are wary of endorsing discrete, explicit restrictions on the flights of drones, for example, a drone corridor between 200–400 feet. We find the 200-foot line arbitrary and unjustified, and we would defer to a representative coalition of stakeholding parties to craft the minutiae of such a bill, including restrictions on drone flight and exceptions for first responders, aircraft emergencies, etc.

Drones are able to cause nuisance in unprecedented ways. But we agree with the aforementioned letter in response to the draft legislation that existing nuisance laws are adequate for adjudicating disputes that would arise. The ULC expresses concern about extensive fact-finding that would result from such cases. However, the technological components of a holistic drone integration and aerospace management regime will certainly include remote ID and UAS traffic management systems, with forensic accuracy and reliability, which will make fact-finding a trivial operation.

Concerns about the Prohibition of Drone Photography

We are deeply concerned about the creation of a tort for the capture of aerial photography and videography. One of the most impressive and promising capabilities of drones is to operate as a platform for photography, videography, and other data collection. The application of these capabilities ranges from first response to filmmaking, tourism, surveying, urban planning, real estate development, and so on. The creation of a tort for the capture of aerial photography threatens to impose penalties for the incidental collection of relatively harmless imagery in ways that would nullify one of the most promising economic benefits of drones.

The applications of drone photography are myriad. For example, consider a real-estate developer who captures a picture of a house – a picture that shows the rest of the neighborhood in the background. Or consider a local tourism board that produces a flyover video of a local university – and captures the surrounding neighborhood in the periphery. We are concerned that the legislation as it stands would prohibit the reasonable and appropriate use of drone photography and videography for commercial uses such as these.

To reiterate, we believe that a robust and multi-pronged effort is required to establish norms for responsible drone use, as well as technological complements to enforce those expectations. We optimistically await the work of the Commission and others – including drone and counter-drone industry representatives – to craft a reasonable doctrine that threads the needle between the concerns of homeowners, drone pilots, potential drone fleet operators, and those with a significant stake in the final shape of the law. We believe that the current version of the bill falls short of this goal.

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About WhiteFox

WhiteFox is a drone airspace defense and security company headquartered in San Luis Obispo, California. Pioneering the integration of drones into society, WhiteFox develops products that save lives, protect property, and safeguard privacy.

WhiteFox started as a drone manufacturer—we're enthusiasts who want them to fly safely and legally. When we realized there were no mechanisms of enforcement to protect against their misuse, we set out to develop a solution. WhiteFox's mission is to keep the sky open for responsible pilots, advancing drone technology for the benefit of society.

Sincerely,

Dr. Ryan Jenkins
Director of Ethics & Policy
WhiteFox Defense Technologies, Inc.

www.whitefoxdefense.com



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