

BACK STORY

DRONES AT THE LEGISLATURE

BY SCOTT WASSERMAN, ESQ.

Unmanned aerial vehicles, also referred to as UAVs or drones, have been one of the hottest topics in emerging technology news and on the internet. When technology has great potential for both beneficial and detrimental use, it should be no surprise that legislation governing its use is sure to follow.

During the 2015 legislative session, the Nevada Legislature approved Assembly Bill No. 239 regulating unmanned aerial vehicles in this state. Assembly Member Elliot Anderson, the primary sponsor of the bill, testified that AB 239 was intended to protect peoples' privacy, to provide clarity of operators' rights and responsibilities, to allow law enforcement to utilize the technology to keep Nevadans safe, and to make Nevadans comfortable with this emerging technology.

Specifically, the bill makes it a category D felony to weaponize or to operate a weaponized unmanned aerial vehicle. A person who weaponizes an unmanned aerial vehicle and discharges the weapon is committing a category C felony. AB 239 prohibits the operation of a drone within 500 feet horizontally, or 250 feet vertically, of a critical building (defined to include a petroleum or chemical production, transportation, storage or processing facility; petroleum refinery; chemical manufacturing facility; pipeline; water or wastewater treatment facility; certain mines; power generating stations; electric utilities' transmission lines; and detention facilities), or within five miles of an airport without obtaining consent or other authorization.

The bill also clarified that the existing law (NSR 493.130), which makes it a gross misdemeanor to operate any aircraft in the air, on the ground or on water while under the influence of liquor or other controlled substance, or in a careless or reckless manner so as to endanger the life or property of another, does apply to unmanned aerial vehicles.

AB 239 provides an action for trespass for property owners, or anyone who lawfully occupies real property, against an owner or operator of a

drone flown at a height of less than 250 feet over the property in certain circumstances. The owners may recover treble damages for any injury to the persons or the real property, as a result of the trespass, plus attorney's fees and costs, and they may obtain injunctive relief.

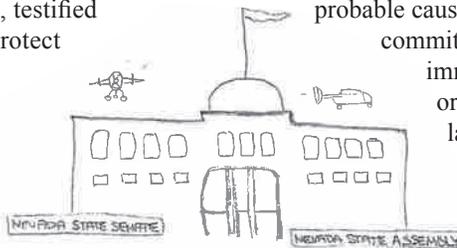
The bill does not prohibit the lawful use of drones by law enforcement agencies, but does place certain limitations on the use of drones by such agencies. Except under limited specified circumstances (such as a search and rescue operation,

probable cause to suspect a person has or is committing a crime, or belief that an imminent threat exists to a person's life or safety or to the public at large), a law enforcement agency is prohibited from operating unmanned aerial vehicles for the purpose of gathering evidence or other information within the curtilage

of a residence or any other location, or upon any property where a person has a reasonable expectation of privacy, unless the law enforcement agency first obtains a warrant from a court of competent jurisdiction authorizing such use of the drone. The bill also provides limited purposes and circumstances under which other public agencies may operate drones, and creates a registry for drones operated by public agencies.

These provisions of AB 239 become effective on October 1. The full text of the measure is available on the legislative website at: http://www.leg.state.nv.us/Session/78th2015/Bills/AB/AB239_EN.pdf **NL**

For information on AB 161, the bill relating to taxation of certain aviation related businesses, visit the legislature's website at http://www.leg.state.nv.us/Session/78th2015/Bills/AB/AB161_EN.pdf.



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