



Fine Print

A Quarterly Publication of The Ohio State Bar Association
and Our Members

Issue 69 • Fall 2016

Drone Technologies: Business Opportunities and Legal Risks

By Alan S. Wernick, Esq.

Unmanned aerial vehicles (UAVs) or unmanned aircraft systems (UASs), referred to collectively as “drones” in this article, are currently used for law enforcement, national security, property security, commercial and scientific purposes, photography, and for a variety of businesses. Other examples include:

- retail (e.g., package delivery, inventory inspection);
- real estate (e.g., selling and buying homes, surveying land);
- insurance (e.g., evaluating claims, inspecting property for underwriting);
- manufacturing (e.g., facilities inspections);
- oil and gas companies; utility and power line companies (e.g., delivery of tools and parts to field engineers, inspecting distribution lines); and
- agricultural (e.g., crop management).

The Federal Aviation Administration (FAA) regulates the national airspace in the United States. On Aug. 29, 2016, the FAA-issued “Small Unmanned Aircraft Rule” (14 C.F.R. Part 107) became effective. A summary of this new regulation is available at www.faa.gov/uas/media/Part_107_Summary.pdf. It outlines (in part):

- certain operational limitations (e.g., requirements to maintain a visual line of sight, to operate in daylight only, and to yield right of way to other aircraft, etc.);
- remote pilot-in-command certification and responsibilities (e.g., requirement that a pilot must hold a remote pilot airman certificate with a small UAS rating or be under the direct supervision of someone who holds a remote pilot certificate);
- aircraft requirements (e.g., a pre-flight check of the small UAS to ensure that it is in a condition for safe operation); and



DRONE GUIDELINES

- applicability to model aircraft (e.g., prohibiting model aircraft operators from endangering the safety of the National Airspace System).

If your business wants to use drones for commercial purposes, you must either contract with an individual who is an FAA-licensed remote pilot, or with another company that can provide individuals with a current FAA remote pilot certificate, or arrange for one or more of your own employees to qualify for and obtain a remote pilot certificate. You can also try to obtain the remote pilot certificate yourself or you can contact a lawyer for assistance with the

Cont. on page 2



**OHIO STATE BAR
ASSOCIATION**
Connect. Advance. Succeed.

For additional copies of *Fine Print*, or further information, please contact OSBA Public Relations, 1700 Lake Shore Drive, Columbus, Ohio 43204, or by phone, 800/282-6556 and 614/487-2050. Articles appearing in this newsletter are intended to provide broad, general information about the law. Before applying this information to a specific legal problem, readers are urged to seek advice from an attorney.

Drones, cont. from page 1

licensing process. Information about the FAA licensing process is available from the FAA.GOV website or from a local FAA Flight Standards District Office.

While drones offer many new opportunities for businesses, they also present new risks and regulatory compliance requirements. Before using drone technology for your business, at a minimum you should consider these questions:

1. Does your business have employees with a remote pilot certificate?
2. Does your business have appropriate insurance coverage for use of drones (e.g., for damage or harm to people or property caused by the drone)?
3. What are the protocols in place to avoid liability for privacy violations?
4. If the drone will be taking photographs, who will own the copyrights to the photos?
5. What precautions are in place to minimize the risk of a cyber-attack on the drone during flight?
6. What written processes and procedures do you have in place to address drone maintenance procedures, recordkeeping (e.g., maintenance, flight times, etc.), and other airworthiness aspects of your drone(s)?
7. In addition to the FAA regulations, does your drone operation comply with other local, state, and federal laws and regulations?

The bottom line is that, like cell phone technology, use of drone technologies in business will become more ubiquitous. If your business plans to use drones, you and your lawyers should be mindful of the legal landscape you are flying into before releasing a drone over the physical landscape.