



# The Regulation of Drones: A Primer of Laws Governing Unmanned Aerial Systems

In recent years, various industries have relied increasingly on vehicles that utilize unmanned aerial system (UAS) technology, known colloquially as “drones,” to maximize profits, cut costs and reduce safety hazards. In February 2018, the number of small drones registered with the Federal Aviation Administration (the FAA) exceeded one million, with 122,000 of the drones identified as being used for commercial, public or other non-recreational purposes.<sup>1</sup> In fact, experts have estimated that as of 2017, 4,500 drones utilize American airspace daily for commercial reasons in addition to the hundreds, possibly thousands, of drones that are used daily for recreational purposes.<sup>2</sup>

Some of the applications for which drones are utilized include law enforcement, land surveillance, wildlife tracking, search-and-rescue operations, disaster response, border patrol and photography.<sup>3</sup> Furthermore, businesses that offer delivery services, such as Amazon, pizza parlors and even medical-supplies providers, have noted their intention to utilize UAS technology as soon as possible to deliver products to customers.<sup>4</sup> Additionally, in Louisiana, drones are used for coastal mapping and restoration, flood monitoring, crop management and oil-and-gas activities.<sup>5</sup> Moreover, the Association of Unmanned Vehicle Systems International has estimated that by 2025, the drone industry will employ more than 100,000 people and will

generate more than \$80 billion for the U.S. economy, including more than \$150 million in Louisiana.<sup>6</sup>

## What are drones?

A drone consists of three primary components: (1) an unmanned aircraft; (2) a ground-based or onboard control station; and (3) a communications link between them.<sup>7</sup> Furthermore, La. R.S. 2:2(B) and La. R.S. 3:41(6) define “unmanned aerial system” as “an unmanned aircraft and all associated support equipment, control station, data links, telemetry, communications, and navigation equipment necessary to operate the unmanned aircraft,” including “drones, remote-controlled aircraft, unmanned aircraft, or any other such aircraft that is controlled autonomously by computer or remote control from the ground.” “Unmanned aircraft system,” in turn, is defined as “an unmanned, powered aircraft that does not carry a human operator, may be autonomous or remotely piloted or operated, and may be expendable or recoverable.”

Notably, La. R.S. 2:2(B) expressly excludes from the definition of “unmanned aircraft system” those systems utilized by federal and state government actors for official surveillance purposes, local government law enforcement agencies and fire departments, the Louisiana Public Service Commission, local franchising authorities, businesses regulated by the Federal Communications Commission, public utilities, and the Federal Railroad Administration. Alternatively, La. 14:337(B) (4) defines “unmanned aircraft system” as “an unmanned, powered aircraft that does not carry a human operator, can be autonomous or remotely piloted or operated, and can be expendable or recoverable.”

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### How are drones regulated by the federal government?

The FAA, the federal agency charged with ensuring the safety of the national airspace, regulates the operation of drones within the United States.<sup>8</sup> In addition to the FAA's requiring the registration of drones weighing 55 pounds or more, the FAA also requires registration of all small, unmanned aircrafts weighing between 0.55 pounds and 54 pounds.<sup>9</sup> Prior to August 29, 2016, businesses were required to obtain a special waiver called a Section 333 Exemption in order to use drones for commercial purposes.<sup>10</sup> However, the regulations have since been relaxed, and now businesses are required to obtain a Part 107 Waiver in order to operate a drone for commercial purposes, which is a far less restrictive process.<sup>11</sup> Additionally, among other regulations included in 14 C.F.R. § 107, in the absence of a Part 107 Waiver, a drone in operation must (1) remain within the line of sight of the pilot in command;<sup>12</sup> (2) be operated by a live pilot;<sup>13</sup> (3) not be operated by a pilot who is simultaneously operating another drone;<sup>14</sup> (4) not be operated from a moving vehicle;<sup>15</sup> (5) not be operated at night;<sup>16</sup> and (6) not be operated over human beings, unless authorized by Part 107.<sup>17</sup> In addition, drones must be operated within certain airspace and generally must not be flown within five miles of an airport.<sup>18</sup>

### How are drones regulated by the state government?

During the 2017 Regular Legislative Session, the Louisiana Legislature enacted La. R.S. 2:2, which, in the absence of preempting federal law or regulation, provides the state with the exclusive jurisdiction to regulate all unmanned aircraft systems and all unmanned aerial systems. The statute also clarifies that “[s]tate law shall supersede and preempt any rule, regulation, code, or ordinance of any political subdivision or other unit of local government.”<sup>19</sup> However, the only industry for which a set of drone-specific statutes has been promulgated is the agriculture industry. La. R.S. 3:42 empowers the Commissioner of Agriculture and Forestry to adopt, implement, administer and enforce rules and regulations relating to registration and use of drones in the course of agricultural operations. Furthermore, La. R.S. 3:42(C) authorizes the Commissioner to appoint advisory committees composed of public universities holding certificates of authorization from the FAA as well as other active university research programs.

In regards to criminal acts, the legislature in 2014 enacted La. R.S. 14:337, which criminalizes the unlawful use of an unmanned aircraft system, defined as (1) “the intentional use of an unmanned aircraft system to conduct surveillance of, gather evidence or collect information about, or photographically or electronically record a targeted facility without the prior written consent of the owner of the targeted facility;” and (2) “the intentional



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use of an unmanned aircraft system over the grounds of a state or local jail, prison, or other correctional facility that incarcerates or detains juveniles or adults accused of, convicted of, sentenced for, or adjudicated delinquent for violations of criminal law without the express written consent of the person in charge of that state or local jail, prison, or other correctional facility.”<sup>20</sup> Included within the definition of “targeted facilities” are petroleum and alumina refineries, chemical and rubber manufacturing facilities, nuclear-power-election-generation facilities and school premises.<sup>21</sup> The statute clarifies that the surveillance restrictions do not apply to a property owner or a third person retained on the property owner’s behalf, lessees, servitude holders, licensees, those with permits, individuals with federal surveillance authorization, persons engaged in agricultural commercial operations and institutions of higher education.<sup>22</sup>

In addition, the legislature has amended various criminal statutes over the past few years to include unmanned aircraft systems within the ambit of preexisting laws, including video voyeurism (La. R.S. 14:283), abuse of persons with infirmities through electronic means (La. R.S. 14:283.3), the “Peeping Tom” law (La. R.S. 14:284), voyeurism (La. R.S. 14:283.1), resisting an officer/knowing interference with a police cordon (La. R.S. 14:108) and criminal trespass (La. R.S. 14:63).

## Conclusion

Given the astonishing rate at which UAS technology is being integrated into industries across the world, it seems certain that drones will be regulated increasingly on a federal, state and local level. The Louisiana Legislature has remained cognizant of the exponential utilization of drones and has responded by including drone operations within the criminal statutes and by recognizing that the State of Louisiana has the authority to regulate UAS technology in the absence of preempting federal regulations. However, thus far, the legislature has found the necessity to promulgate drone-specific laws for the agriculture industry only. Nevertheless, one may expect to see the legislature increasingly considering the promulgation of additional drone laws as Louisiana approaches the 2020s and as drones continue to swarm their way into most facets of everyday life. ■



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<sup>1</sup> Susan Buchanan, *Louisiana’s Government and Corporate Drone Usage Grows*, The Louisiana Weekly (Feb. 5, 2018), <http://www.louisianaweekly.com/louisianas-government-and-corporate-drone-usage-grows/>.

<sup>2</sup> Roselyn Anderson, *FAA Sets New Drone Regulations*, Mississippi News Now (Mar. 8, 2017), <http://www.msnewsnow.com/story/32277273/faa-sets-new-drone-regulations>.

<sup>3</sup> National Conference Of State Legislatures, *Current Unmanned Aircraft State Law Landscape* (Feb. 1, 2018), <http://www.ncsl.org/research/transportation/current-unmanned-aircraft-state-law-landscape.aspx>.

<sup>4</sup> Jonathan Rupprecht, *Drone Delivery – 3 Big Legal Problems* (2018), <https://jrupprechtlaw.com/amazon-drone-delivery-3-major-legal-problems-amazon-prime-air> (last visited Jul. 5, 2018).

<sup>5</sup> Buchanan, *supra* note 1.

<sup>6</sup> Anderson, *supra* note 2; Brendan P. Doherty & Bradley J. Schwab, *Drones on the Bayou*, 63 La. B.J. 392 (2016), citing The Economic Impact Of Unmanned Aircraft Systems Integration In The United States, (March 2013), [www.auvsi.org/auvsiresources/economicreport](http://www.auvsi.org/auvsiresources/economicreport).

<sup>7</sup> Doherty & Schwab, *supra* note 6, citing Fed. Aviation Admin., *Integration Of Civil Unmanned Aircraft Systems (Uas) In The National Airspace System (Nas) Roadmap* (Nov. 7, 2013), 8, [http://www.faa.gov/uas/media/uas\\_roadmap\\_2013.pdf](http://www.faa.gov/uas/media/uas_roadmap_2013.pdf).

<sup>8</sup> *Id.*

<sup>9</sup> Buchanan, *supra* note 1.

<sup>10</sup> *How to Navigate Laws for Drone Aircraft*, Louisiana Technology Park (Jan. 23, 2018), <https://www.latechpark.com/blog/2018/1/22/how-to-navigate-laws-for-drone-aircraft> (last visited Jul. 6, 2018); Rupprecht, *supra* note 5.

<sup>11</sup> Rupprecht, *supra* note 5.

<sup>12</sup> 14 C.F.R. § 107.31.

<sup>13</sup> 14 C.F.R. § 107.19.

<sup>14</sup> 14 C.F.R. § 107.35.

<sup>15</sup> 14 C.F.R. § 107.25.

<sup>16</sup> 14 C.F.R. § 107.29.

<sup>17</sup> 14 C.F.R. § 107.39.

<sup>18</sup> 14 C.F.R. § 107.41.

<sup>19</sup> La. R.S. 2:2(A)(2).

<sup>20</sup> La. R.S. 14:337(A).

<sup>21</sup> La. R.S. 14:337(B)(3).

<sup>22</sup> La. R.S. 14:337(C), (D), (F).

## GAIL’S GRAMMAR

When a noun is modified by two or more adjectives, writers are sometimes puzzled over whether to use a comma between the adjectives. For example, would you use a comma in the sentence below?

The *vivid colorful sunset* was caused by dust from the Sahara Desert.

Two tests can solve the problem. First, does the sentence sound normal if “and” is placed between the adjectives? Second, does the sentence sound normal if the words are reversed? If these tests are met, a comma is needed. “The vivid and colorful sunset” works, as does “The colorful vivid sunset.” Thus a comma is needed because the adjectives are coordinate.

But if those tests aren’t met, no comma is needed, as in: The dust caused *record high heat*. “Record and high heat” sounds odd, as does “high record heat.” So they are not coordinate, and no comma is needed.

Send suggestions for future Gail’s Grammar columns to Gail Stephenson at [GStephenson@sulc.edu](mailto:GStephenson@sulc.edu), or call Gail at 225.771-4900 x 216.