

## First in Flight, Tops in Tech, Ascendant in UAS:

### Digital Media and Data Privacy Law Blog

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Posted in Drone Law

The next time you go for a long hike in a national forest with no cell phone service, you might want to take a drone with you so that you can send for help when you break your leg, dehydrate, and need help.

While you, as a non-commercial drone “hobbyist” or “modeler,” might—emphasis on *might*—not violate any state or federal law if you were to send a drone to facilitate your rescue, the same cannot be said for many other potential drone operators. In fact, law enforcement in some states may not be able to send a drone to determine your specific location or provide you with medication, food, or water—*Hunger Games* style—because such activity could violate nascent state laws and regulations governing “surveillance.” And the FAA has made clear that commercial drone use is generally not permitted at this time. While UAS enthusiasts might wish to believe that the FAA’s position is in flux after the National Transportation Safety Board (“NTSB”) determined that the FAA could not impose a \$10,000 fine on an individual in connection with his use of a drone to take photos of, and subsequently sell them to, a college campus the FAA has appealed the NTSB decision signaling that, for now, the FAA is holding firm to the prohibition.

But while the FAA considers how to adopt an appropriate regulatory regime to govern the use of drones for commercial purposes, a great deal of activity is underway at the state and local level. Numerous state legislatures across the country have been considering—and in some instances adopting—bills to limit the use of drones by law enforcement, government agencies, and other entities and persons. North Carolina, for example, has convened a Study Committee to consider whether the time is ripe for UAS legislation and, if so, what the contours of such legislation should be. In fact, draft legislation will be the subject of discussion at the Study Committee’s final meeting in April.

At a minimum, newsgatherers of all stripes need to be mindful of and involved in state and local legislative activity that may restrict the use of UAS for newsgathering purposes. It is not hard to understand how and why the potential invasion of privacy implicated by overzealous UAS use would capture the imaginations of legislatures everywhere, but UAS use is in its infancy, and even well-meaning legislation could hinder development of UAS applications.

While it is relatively easy to understand the privacy concerns and potential Fourth Amendment implications of drone use by law enforcement and other government organizations, it is equally easy to understand the tremendous potential presented by commercial UAS use. North Carolina has the potential to be the epicenter of the drone industry and could be viewed as a center for development of commercial (and non-commercial) drone applications and activities. The NextGen Air Transportation Center is headquartered at North Carolina State University, North Carolina has a variety of climates and topography in which to test and study drone use, and the state is home to numerous technology companies. Moreover, as recently as 2012, Raleigh was recognized as a top city for tech jobs. Even though the FAA may have declined to select any location in North Carolina as a UAS test site, North Carolina is fertile ground for UAS ascension. All UAS stakeholders need to pay attention now to ensure that North Carolina remains fertile ground for drone development.

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