

What you need to know before flying a drone

BY CHRISTOPHER BURNS
BDN STAFF

Drones have skyrocketed in popularity over the last three years. The Consumer Technology Association predicts 2015 could go down as a defining year for the small aircraft and estimates that 700,000 drones will land under Christmas trees and will eventually take to the sky.

The proliferation of drones has upped the urgency for the Federal Aviation Administration to integrate the aircraft safely into the national airspace. As the FAA continues to finalize those rules, there are a few things drone operators, both commercial and recreational, ought to consider before flying.

Get permission first

From Amazon's proposed drone delivery service to real estate marketing to construction site monitoring, many industries have been looking to find their own applications for drones. But they'd better let the FAA know first.

Until the FAA releases its final rule for drone operations (the deadline was Sept. 30, and the rule still isn't out) in the national airspace, drones largely are not allowed to be flown for commercial purposes. Hobbyists and recreational operators, however, do not have to get permission.

In the meantime, businesses can apply for a Section 333 waiver to use drones commercially. The FAA considers these waiver requests on a case-by-case basis, and they often come with a set of rules for flying the drone, such as avoiding flights over populated areas and flying only during daytime.

The waiver also requires the operator to have a pilot's license in order to fly a drone commercially, a requirement that will likely keep many small businesses from deploying drones.



CARLO ALLEGRI | REUTERS

An airplane flies over a drone during the Polar Bear Plunge on Coney Island, New York, in January.

"If you're a company like Amazon, you just go hire a pilot. If you're a small, four- or five-person business, that's going to be a major obstacle if you don't already have someone with a pilot's license," said Michael Bosse, the leader of the Portland-based law firm Bernstein Shur's construction practice group and its newly formed drone law team.

He added that final regulations may relax that requirement and replace it with a less stringent drone certification training.

Even though commercial drone flights aren't allowed without FAA authorization, many businesses fly drones anyway. But the FAA has cracked down on some violators. In October, the FAA levied a \$1.9 million fine against the Chicago-based SkyPan International for 65 unauthorized aerial photography flights.

With a final rule overdue, Bosse said, for many people it may come down to whether they want to seek an FAA waiver or just wait for the regulations to change.

Don't forget to register

Drone hobbyists and recreational operators have complicated FAA efforts to safely integrate drones into the national airspace. No official count exists for the number of drones already circling overhead, but industry officials wager it's in the hundreds of thousands and will likely surpass a million this year if the Consumer Technology Association's Christmas drone gift prediction pans out.

The FAA proposed basic rules in February for the flight of recreational drones, including that the aircraft weighs no more than 55 pounds, stays with-

in sight of the operator and flies only during daytime. In addition, the rules proposed a requirement that operators first obtain permission before flying over someone's property.

But the rule proposal remains just that — a proposal with no legal force.

As a result, many drone operators are unaccountable for safety violations. Between November 2014 and August 2015, the FAA recorded 764 incidents in which drones flew too close to aircraft, including one incident last March at the Portland International Jetport.

On Monday, Nov. 23, the FAA's drone task force, which included representatives from retailers Amazon and Wal-Mart and drone manufacturers Parrot and Precision Hawk, released its recommendation for a recreational drone registry.

Under the proposed policy, recreational drones weighing between half a pound and 55 pounds must be registered in a national database, operators must provide a name and address, and the drones must display a government-issued registration number. The policy, which is under review, could go into effect by the end of the year, separate from previous rule proposals.

"Now the FAA needs to decide whether they're going to accept [the recommendations] as is or modify them," Bosse said. "What will be interesting to see is which side of the holidays they will make the decision on — whether they do it on Dec. 20 or wait until after Christmas."

So if you unwrap a drone this Christmas, you may need to let Uncle Sam know before you fly it.

Check local, state regulations

State and local governments have taken steps to prevent misuse of drones within their borders as the FAA dawdles. Drone operators should check state laws and local ordinances first to avoid unintentional violations, Bosse said.

According to the National Conference of State Legislatures, 45 states considered 168 bills related to drone use this year. So far, 26 states have related laws on the book.

These include a new Maine law requiring police to get a warrant before deploying a drone for an investigation, as well as a New Hampshire law that prohibits "PETA drones" from harassing hunters, fishers and trappers.

Some cities, such as New York, have considered ordinances to restrict drone use to protect residents from harassment and privacy violations. Bosse said Maine towns and cities could start considering their own ordinances to prohibit some drone uses much like they have with fireworks.

Respect people's privacy

One issue that remains at the forefront of the drone debate is privacy. While people's privacy in the home is already protected from aerial Peeping Toms, governments will likely work out other issues about drone surveillance in public places as they arise, Bosse said.

For instance, does a reasonable expectation of privacy exist if someone is walking down the street or driving in public? Bosse said it's an experimental time as old case law will be tested as these cases arise.

"I don't know how that's going to flesh out. That will ultimately turn on what society decides is a reasonable expectation of privacy," Bosse said.

Crime

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not to report a crime, national studies offer a glimpse of the causes of underreporting.

For victims of rape and sexual assault, one of the leading reasons cited for not reporting a crime is that they dealt with it in another way or considered it a personal matter, according to a 2012 special report by the Bureau of Justice Statistics.

A social stigma around rape and sexual assault deters victims from reporting the crime to the authorities who feel that the criminal justice system may further compound their trauma, according to Courchesne.

Often, Courchesne said, this violence is inflicted by "people in the victim's life," such as a family member, friend, acquaintance or former intimate partner. When the offender is someone close to the victim, it is twice as likely that the crime will go unreported, often because

victims fear reprisal, getting the offender in trouble, or even that no one will believe the allegation.

"Even though they don't like being victimized, they don't want to get the perpetrator in trouble," George Shaler, one of the author's of the Maine Statistical Analysis Center's survey, said. "Or they fear retaliation: 'If I report this unwanted behavior, will it escalate the situation?'"

Courchesne said it's essential that sexual violence be seen as "a community

issue" in order to remove the stigma and disbelief victims who come forward experience.

"We must continue to address gaps in the system to ensure that when survivors do report [the crime], they are supported and the trauma they've experienced is not compounded by disbelief or an inadequate response," she said. "Until we create a safe environment for survivors of sexual violence to report the crime, [underreporting] is not likely to change."



JASON MICZEK | REUTERS

Chesterfield County sheriff's deputy Carolyn King removes rifles from a shipping container as she and other officers sort through thousands of guns found in the home and garage of Brent Nicholson in Pageland, South Carolina, on Nov. 10. Inside Nicholson's house, rifles and shotguns were piled in the living room, halls and bedrooms; handguns littered tables and countertops. Outside, when sheriff's investigators rolled up the door on the metal garage, more arms spilled out at their feet. The question of how one man amassed such a stockpile of guns arises as there is renewed American soul-searching over the widespread availability of firearms in the wake of a series of mass shootings.

Steed

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because without question everyone gets a gun and the only reason we aren't dead is because no one has chosen to shoot us yet?

The price of liberty is terror, and a body count in the tens of thousands. The price of liberty is a body count for 2015 that exceeds

the number of those killed on 9/11 and accepting it as the norm.

A few days back, my wife said, "I'm really surprised that there wasn't a mall shooting on Black Friday," and I was surprised to agree. We are surprised when there aren't shootings, but not when there are.

I'm done sitting on the fence. The NRA zealously portends that it exists to

stand between the gun owner and a government that is just waiting for its opportunity to pounce — to round up the munitions and exact its tyrannical plan against the people. But the irony is that the America it helped to create will very likely scare its citizenry into demanding something — anything — to make it stop.

I refuse to accept this America, the NRA's Amer-

ica, as the best we can do. Without aiming to do better, you must ask yourself: What massacre might tomorrow hold for you and yours?

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DOMINICK REUTER | REUTERS

People walk past Princeton University's Woodrow Wilson School of Public and International Affairs in Princeton, New Jersey, recently. Princeton University has pledged to consider renaming buildings dedicated to former President Woodrow Wilson, the latest college campus effort to quell student complaints of racism.

Morals

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(now unpopular) opinion. His thoughtcrime? Donating \$1,000 to oppose gay marriage in 2008. Nevermind that his position was shared by 52 percent of Californians, as well as Barack Obama and Hillary Clinton at that time.

Differences of opinion should be expressed respectfully, but a true "safe space" is one where people are free to disagree. Similarly, the efforts to strike names from public view presents problems. The protesters are correct in pointing out our historical leaders were not unwavering paragons of virtue. We must recognize their strengths, successes and flaws. Human nature rarely changes, and, if we are to learn from history, we need to understand all its facets, good and bad.

But by judging individuals against today's standards, we inflate their failings and trivialize their successes. Actions can only be understood in the context of their time. The greatness of the Declaration of Independence is only truly appreciated if you understand its radicalism. In an era where kings ruled by divine right and nobility was hereditary, the politi-

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cal notion of equality itself was revolutionary. Jefferson's failure to live up to his own words does not mean he must be relegated to the ash heap of history. It means he was a product of his time, and was not strong enough to overcome the moral wrongs of the world as he found it.

The fact is a person can do both great and terrible things; none of us are without fault. And we can celebrate people from the past without closing our eyes to their failings. If we demand unwavering moral clarity before we honor someone, the list gets mighty short. There was only one perfect person to ever exist and His birthday celebration is this month. But that raises a different question: is it still OK to wish you a Merry Christmas?

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