

NetChoice *Promoting Convenience, Choice, and Commerce on the Net*

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Governor Ralph Northam
Richmond, Virginia 23219

Dear Governor Northam,

NetChoice writes today regarding two Governor's Recommendations offered to House Bill 638 and Senate Bill 526.

These amendments will be before the General Assembly during the Reconvened Session on 18 April. NetChoice is concerned with Amendments #1 and #2 and respectfully requests that your remove these amendments.

House Bill 638 and Senate Bill 526 are the result of nearly three years of stakeholder engagement and collaboration. Working with the General Assembly, the unmanned systems industry brought this legislation forward to provide reasonable protections for individuals while at the same time ensuring that Virginia does not stymie the growth of the UAS industry or hamper the ability for individuals and businesses to utilize unmanned aircraft systems.

Unfortunately, two of the amendments offered to the legislation create significant concerns for the unmanned systems industry. The amendments will jeopardize Virginia's status as a leader in unmanned systems and expose thousands of operators to a strict aerial trespass statute which carries with it a significant criminal penalty.

Amendment #1: As passed by the General Assembly, the legislation made permanent an existing statute passed during the 2016 Session which prohibits local governments from being able to regulate the use of a privately owned, unmanned aircraft system and clarified the original intent of the existing prohibition which was its applicability to any political subdivision.

The proposed amendment would significantly weaken that statewide preemption by exempting certain entities from the preemption. This is a dangerous precedent and will likely lead to a regulatory patchwork of rules that will vary locality to locality. The amendment, if adopted, would jeopardize Virginia's place as a top state for unmanned systems by creating a more complex regulatory framework.

Amendment #2: The legislation passed by the General Assembly provides reasonable protections for individuals being harassed by drones and would make it a Class 1 Misdemeanor for an individual to use an unmanned aircraft system to knowingly and intentionally harass another individual.

The unmanned systems industry was able to support the strict aerial trespass language because of the protections afforded to lawful operators. Indeed, the aerial trespass language was intended to provide a criminal penalty towards bad actors who are unlikely to follow federal guidelines. The proposed

amendment removes the protections afforded to consumers and exposes lawful operators to a very strict trespass statute with a significant criminal penalty.

This amendment, if adopted, would expose thousands of lawful UAS operators to a criminal penalty, which is unnecessary because there is already an existing body of civil trespass law to address concerns about nuisance complaints.

As noted, these bills are the result of nearly three years of collaboration and stakeholder involvement. Each of these proposed recommendations were considered by the General Assembly and rejected due to the negative impact it would have on the unmanned systems industry and the potential exposure of lawful operators to serious criminal penalties.

The core tenant of both bills is that the best approach to drone regulation in Virginia is a harmonized one, continuing to recognize the jurisdiction of the federal government in matters relating to aircraft and airspace regulation, and ensuring a uniformity in the state regulatory approach. The legislation also provides a tool to prosecute bad actors, while, at the same time, protecting lawful operators – both commercial and consumer.

Again, we respectfully request that you remove amendments #1 and #2.

Sincerely,

Carl Szabo

Vice President and General Counsel, NetChoice

NetChoice is a trade association of e-Commerce and online businesses. www.netchoice.org