

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

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Rep. Zack Hudgins, Chair
House Innovation, Technology & Economic Development Committee
Washington House of Representatives
Olympia, WA

RE: *Support with amendments for HB 1766 – AN ACT Relating to unmanned aircraft; adding a new chapter to Title 9A RCW; and prescribing penalties.*

Dear Chairman Hudgins and members of the committee,

We ask that you amend and advance HB 1766 regarding the operation of Unmanned Aircrafts (hereinafter “UAS”) – proposed amendments at end of testimony.

UAS hold tremendous promise for businesses, professionals, and hobbyists. In industries like real estate, security, agriculture, architecture, engineering, and delivery. UAS can provide significant commercial benefits to consumers and businesses in both rural and urban areas.

With the following amendments, HB 1766 will create important and sensible privacy protections for Washington while clarifying UAS rules and laws for Washington’s localities and residents. In doing so, the amended HB 1766 clears a path for operation of UAS across Washington state.

Amended HB 1766:

- Creates statewide standard allowing clarity for individuals and government.
- Recognizes licensing by FAA.
- Prohibits using a UAS to knowingly:
 - Engage in surveillance of another Recording an individual in a manner that invades the individual’s reasonable expectation of privacy.
 - Deliver contraband to a detention facility
 - Operate a drone that puts another in bodily harm.

An amended HB 1766 also protects localities from expensive lawsuits they are likely to lose. Localities that attempt to regulate drones often find their laws being declared unconstitutional as they are preempted by Federal Aviation Administration authority.

Take for example the city of Newton, Massachusetts that passed a drone ordinance in December 2016. Within weeks the city of Newton found itself in court. The court invalidated Newton’s law as it was

preempted by federal law.¹ An amended HB 1766's clear language protects Washington localities from making the same mistake as Newton.

We ask that you amend and advance HB 1766, and we welcome the opportunity to work with you.

Sincerely,

Carl Szabo

Vice President and General Counsel, NetChoice

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

Proposed Amendments (we ask you select one or both of the following amended sections):

Section 1.

(5) "Surveillance" means using an unmanned aircraft or causing an unmanned aircraft to be used to enter ~~and or~~ remain on or above the land of another in order to observe or record, with the intent to or invade the privacy of another.

AND/OR

Section 2:

(b) Aerial data collection, so long as: (i) The person used the unmanned aircraft in compliance with regulations promulgated by the federal aviation administration or he or she possesses an exemption issued by the federal aviation administration; ~~or and~~ (ii) the person did not knowingly conduct surveillance of another person in a private place.

The views of NetChoice do not necessarily represent the views of its members.

¹ See *Singer v. City of Newton*, No 17-10071-WY (Dist. Ct. Mass Sept. 21, 2017) ("Congress has given the FAA the responsibility of regulating the use of airspace for aircraft navigation and to protect individuals and property on the ground, 49 U.S.C. § 40103(b)(2), and has specifically directed the FAA to integrate drones into the national airspace system, Pub. L. No. 112-95 § 332....Intervening in the FAA's careful regulation of aircraft safety cannot stand; thus subsection (c)(1)(b) is preempted.").