

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Rules

BILL: CS/CS/CS/SB 1068

INTRODUCER: Rules Committee; Community Affairs Committee; Commerce and Tourism Committee; and Senator Collins and others

SUBJECT: Drones

DATE: April 5, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Baird</u>	<u>McKay</u>	<u>CM</u>	<u>Fav/CS</u>
2.	<u>Hunter</u>	<u>Ryon</u>	<u>CA</u>	<u>Fav/CS</u>
3.	<u>Baird</u>	<u>Twogood</u>	<u>RC</u>	<u>Fav/CS</u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/CS/SB 1068 amends the Unmanned Aircraft Systems Act to define the terms “drone delivery service” and “drone port” as well as prohibit a political subdivision from withholding the issuance of a business tax receipt or development permit, or enacting or enforcing an ordinance or resolution prohibiting a drone delivery service’s operation based on the location of the delivery service’s drone port, but does allow them to enforce generally applicable minimum setback and landscaping regulations.

The bill exempts drone ports, except for their stairwells, from the Florida Building Code. The bill also exempts drone ports from provisions concerning fire protection systems of the Florida Fire Prevention Code, including the national codes and the Life Safety Code incorporated by reference.

The bill provides an effective date of July 1, 2023.

II. Present Situation:

Drones

A drone is a powered, aerial vehicle that:

- Does not carry a human operator;

- Uses aerodynamic forces to provide vehicle lift;
- Can fly autonomously or be piloted remotely;
- Can be expendable or recoverable; and
- Can carry a lethal or nonlethal payload.¹

The full system comprising of a drone and its associated elements – including communication links and components used to control the drone – is called an unmanned aircraft system (UAS).²

Federal Law and Regulation

Federal law and regulation govern who may fly a drone, as well as when and where the person may do so. The Federal Aviation Administration (FAA) is responsible for regulating aircraft, including drones, that fly in the U.S. airspace.³ In February 2012, Congress passed the FAA Modernization and Reform Act of 2012, which required the FAA to safely open the nation’s airspace to nongovernmental drones by September 2015.⁴

Drone Delivery Services

As technology continues to evolve, a new method of facilitating commerce has emerged in the form of drone delivery services.

In 2019, UPS started their drone delivery service and in 2020 Amazon began their commercial drone delivery operation.⁵ As of 2023, nine Walmarts located in Florida offer drone delivery services.⁶

Typically, businesses like Walmart utilize third party drone vendors to execute the deliveries and operate the drone technology. Such vendors, which employ teams of certified pilots that operate within FAA guidelines, set up delivery hubs at the participating stores and handle the physical deliveries of the parcels.⁷

One recent study found that the drone package delivery market is set for a dramatic increase from a global market size of \$988 million in 2020 to an estimated \$31 billion global market size by the year 2028.⁸

¹ Section 934.50(2)(a), F.S.

² Section 330.41(2)(c), F.S.

³ See 49 U.S.C. s. 40103(b)(1) and (2).

⁴ Public Law 112-95, February 14, 2012, The FAA Modernization and Reform Act of 2012, *Drones in Domestic Surveillance Operations: Fourth Amendment Implications and Legislative Responses*, Congressional Research Service, April 3, 2013, available at <https://sgp.fas.org/crs/natsec/R42701.pdf> (last visited March 10, 2023).

⁵ Federal Aviation Administration, *Package Delivery by Drone (Part 135)*, available at:

https://www.faa.gov/uas/advanced_operations/package_delivery_drone (last visited March 10, 2023).

⁶ Natalie Neysa Alund. USA Today, *Does your local Walmart offer drone delivery? See the list of 36 stores that do here.*, February 14, 2023, available at <https://www.usatoday.com/story/money/2023/02/14/walmart-drone-delivery-locations-states/11254959002/> (last visited March 10, 2023).

⁷ Jessica Bursztynsky, Fast Company, *DroneUp has partnered with Walmart to make home deliveries even faster*, November 19, 2022, available at: <https://www.fastcompany.com/90810793/droneup-has-partnered-with-walmart-to-make-home-deliveries-even-faster> (last visited March 10, 2023).

⁸ Fortune Business Insights, *Drone Package Delivery Market Size, Share & COVID-19 Impact Analysis, By Type (Fixed Wing, Rotary Wing, and Hybrid), By Package Size (Less Than 2 Kg, 2-5 Kg, and Above 5 Kg), By End-use (Restaurant &*

Business Tax Receipts

Businesses operating in Florida are required to pay a local business tax whereby a local governing authority grants the privilege of engaging in or managing any business, profession, or occupation within its jurisdiction.⁹ Upon paying the local business tax, a person from the business is provided a business tax receipt. A business tax receipt is a document issued by a local government that provides evidence a person has complied with the provisions of law relating to the business tax.¹⁰

Florida Building Code

The intent of the Florida Building Code is to establish unified and consistent minimum standards in the design, construction and compliance processes, and regulations for the safety, health, and general welfare of building occupants.

The Legislature has provided local governments with the power to inspect all buildings, structures, and facilities within their jurisdiction to protect the public's health, safety, and welfare.¹¹

Every local government must enforce the building code and issue building permits.¹² It is unlawful for a person, firm, or corporation to construct, erect, alter, repair, secure, or demolish any building without first obtaining a permit from the local government enforcing agency or from such persons that may, by resolution or regulation, be directed to issue such permit, upon the payment of reasonable fees as set forth in a schedule of fees adopted by the enforcing agency.¹³

A building permit is an official document or certificate issued by the local building official that authorizes performance of a specific activity.¹⁴ A building official is a local government employee or a person contracted by a local government who supervises building code activities, including plan review, enforcement, and inspection to ensure work complies with the building code.¹⁵

Florida Fire Prevention Code

The Florida Fire Prevention Code is largely based on the National Fire Protection Association's (NFPA) Standard 1, Fire Prevention Code, along with the current edition of the NFPA's Life

Food Supply, E-commerce, Healthcare, Retail Logistics & Transportation and Others), and Regional Forecast, 2021-2028, available at: <https://www.fortunebusinessinsights.com/drone-package-delivery-market-104332> (last visited March 10, 2023).

⁹ Section 205.022(5), F.S.

¹⁰ Section 205.022(2), F.S.

¹¹ Section 553.72, F.S.

¹² Sections 125.01(1)(bb), 125.56(1), and 553.80(1), F.S.

¹³ See Sections 125.56(4)(a) and 553.79(1), F.S.

¹⁴ Section 202 of the Building Code, Sixth Edition.

¹⁵ Section 468.603(2), F.S.

Safety Code, NFPA 101.¹⁶ The Florida Fire Prevention Code incorporates these by reference in s. 633.202, F.S.

The Florida Fire Prevention Code is the minimum fire prevention code deemed adopted by each municipality, county, and special district with firesafety responsibilities, and applies to every building and structure throughout the state with few exceptions.¹⁷ Municipalities, counties, and special districts with firesafety responsibilities may supplement the Florida Fire Prevention Code with more stringent standards adopted in accordance with s. 633.208, F.S.¹⁸

III. Effect of Proposed Changes:

The bill incorporates the definitions of “drone delivery service” and “drone port” into Florida law.

A “drone delivery service” is defined as a person engaged in a business or profession of delivering goods via drone, and who is governed by the Small Unmanned Aircraft Systems Rule.¹⁹

A “drone port” is defined as a stand-alone building that does not exceed 1,500 square feet in area or 36 feet in height; is located in a nonresidential area; is used, or intended for use, by a drone delivery service for the launch and landing of drones; was constructed using Type I or Type II²⁰ construction as described in the Florida Building Code; and, if greater than one story in height, includes at least one stairwell that may be used for egress.

The bill prohibits political subdivisions from withholding the issuance of a business tax receipt, or from enacting or enforcing an ordinance or resolution prohibiting a drone delivery service’s operation based on the location of the delivery service’s drone port but does allow them to enforce generally applicable minimum setback and landscaping regulations.

The bill exempts drone ports from the Florida Building Code, except for the stairwells. The bill also exempts drone ports from certain provisions concerning fire protection systems of the Florida Fire Prevention Code, including the national codes and the Life Safety Code incorporated by reference.

The bill takes effect on July 1, 2023.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Article VII, section 18 of the Florida Constitution requires a two-thirds vote of the membership of each house of the Legislature to pass legislation requiring counties and

¹⁶ Section 633.202(2), F.S.

¹⁷ Section 633.208, F.S., and 69A-60.002(1), F.A.C.

¹⁸ Section 633.208(3), F.S., and 69A-60.002(2), F.A.C.

¹⁹ See 14 C.F.R. 107.

²⁰ Types I and II are the types of construction in which the building elements are of noncombustible materials, except as permitted in the Building Code.

municipalities to spend funds, limiting their ability to raise revenue, or reducing the percentage of a state tax shared with them. This bill does not require counties or municipalities to spend funds, limit their authority to raise revenue, or reduce the percentage of a state tax shared with them as specified in Article VII, section 18 of the Florida Constitution. Therefore, the provisions of Article VII, section 18 of the Florida Constitution do not apply.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The bill does not create or raise a state tax or fee. Therefore, the requirements of Art. VII, s. 19 of the Florida Constitution do not apply.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 330.41, 553.73, and 633.202.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS/CS/CS by Rules on April 5, 2023:

The CS:

- Clarifies that drone ports include the storage and observation of drones;
- Clarifies that drone port stairwells must comply with the Florida Building Code;
- Provides that a political subdivision may enforce generally applicable minimum setback and landscaping regulations;
- Clarifies that drone ports are exempt from provisions of the Florida Fire Prevention Code concerning fire protection system.

CS/CS by Community Affairs on March 22, 2023:

The CS makes changes to the definition of “drone port” by providing specificity regarding the size of the building, acceptable locations, type of construction, and certain building features.

CS by Commerce and Tourism on March 13, 2023:

The CS provides that drone ports are exempt from the Florida Fire Prevention Code, including the national codes and the Life Safety Code incorporated by reference.

B. Amendments:

None.