

Testimony of Peter Sachs, Esq.

Drone Law Journal

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H.B. 5274: AN ACT CONCERNING THE USE OF DRONES.

Members of the Committee, I thank you for the opportunity to address you today. Unfortunately, a prior commitment prevents me from testifying in person today, so I request that you accept my written testimony as part of the record of this public hearing.

My name is Peter Sachs. I have been a Connecticut attorney for 22 years, a manned commercial helicopter pilot for 33 years and I now fly drones. I am the author of Drone Law Journal, considered the definitive guide to current drone law. I am also a captain with the Branford CT Fire Department, and in 2014, I had the honor of piloting the first firefighting drone flight in history.

Since 2013, I have been one of the nation's leading drone advocates, encouraging the safe and responsible use of drones and discouraging unsafe and irresponsible use as well as state, local and federal efforts to pass unnecessary and invalid laws that would prevent drones from being what they are destined to be — devices with countless uses that make our lives safer, less expensive and more efficient.

I am pleased to be able to say that Connecticut's legislature, and in particular the Program Review and Investigations and Public Safety and Security Committees devoted an inordinate amount of time and energy last year to determine exactly what a state may and may not do with respect to regulating flight and airspace.

The committees have a unique understanding that most states lack, and I commend all of you.

H.B. 5274 properly defines an unmanned aerial vehicle. It also correctly prohibits the remote control of a deadly weapon, explosive or incendiary device, or the release of a deleterious agent. The two incidents we all saw committed by a misguided young man in Clinton last year would be felonies under this bill.

The addition of the provision, to prohibit the “release” of contraband into correctional or humane institutions, properly addresses a valid legislative concern by prohibiting the undesired conduct in a manner that does not also attempt to regulate flight as other states have done, and which is outside a State’s jurisdiction.

However, unlike last session’s S.B. 974¹, H.B. 5274 contains no prohibition on law enforcement officers operating weaponized drones. I am uncertain as to why this section is not included in the current bill, as its exclusion is completely unwarranted. Law enforcement cannot argue (as it did in the last session), that law enforcement drones are simply another form of “aircraft,” and should not be subject to warrant requirements, and at the same time assert in this session, that

¹ Substitute Senate Bill No. 974 (2015) read, in relevant part:

Sec. 8(b)(2). A law enforcement officer shall not operate an unmanned aerial vehicle that is equipped with tear gas or any like or similar deleterious agent or a deadly weapon, as defined in section 53a-3 of the general statutes, including, but not limited to, any explosive or incendiary device, as defined in section 53-206b of the general statutes, or any firearm, as defined in section 53a-3 of the general statutes.

unlike manned law enforcement aircraft that are not weaponized, it is appropriate for law enforcement drones to be weaponized.

If it is law enforcement's contention that a weaponized drone could prove useful to stop malicious conduct by civilian drones, then they fail to understand that under federal law, no person (including any member of law enforcement) may damage, destroy, disable or wreck any aircraft. That is a federal felony under 18 U.S.C. § 32, punishable by a fine up to \$250,000 or a jail term of up to 20 years, or both. The language prohibiting weaponization of a drone operation by a law enforcement officer must be amended this bill, unless our legislature intends to approve of the commission of federal felonies.

I would further suggest two things to make this bill more effective.

First, the two committees have worked long and hard to educate themselves with respect to what states may and may not regulate with respect to airspace and flight. They have carefully crafted legislative language that both conforms with the limited manner in which states may regulate, and addresses the State's legitimate concerns.

There is, however, nothing in our statutes that would prevent municipalities and agencies from enacting their own ordinances or regulations that could undermine this body's work. A patchwork of local ordinances and agency regulations relating to drone operations would create chaos statewide, while a single State regulatory structure would ensure order.

The states of Oregon and Maryland have already passed such preemption measures, and I would strongly encourage Connecticut to do the same. A preemption statute should reserve any regulation of drone operations exclusively to the State, and prohibit any municipality or agency from enacting any ordinances or regulations related to those operations. It should also supersede and invalidate retroactively any existing prohibitions, restrictions and regulations, as of the effective date of this bill. I would request that you consider the amendment I have drafted and attached hereto as "Attachment 1."

Second, I would suggest that, in accordance with discretion afforded the legislature in C.G.S. Section 2-32, the effective date of this bill be July 1st rather than October 1st, or upon its passage, if possible. Drones are flown with more frequency during good weather, and more good weather exists beginning on July 1st than exists beginning October 1st. Moreover, the sooner reckless behavior (as was twice displayed by the young man in Clinton) can be made felonious, the better.

I believe that H.B. 5274, once amended as described above, and combined with the provisions of S.B. 148, would create a solid yet limited basis of drone regulation in Connecticut that would prohibit the conduct of bad actors, without creating any barriers for the innovative good actors, which represent the vast majority of drone operators. It would also not attempt to regulate in any areas that are within the exclusive jurisdiction of the United States government.

I thank you for your time and consideration, and I will be happy to answer any questions that the Committee might have. I can be reached via the contact information shown below.

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Attachment 1.

Amend CGS Title 15, Section 15-41 to read (**bold, underlined** are NEW):

1 **Section 15-41 - Regulations and standards.**

2

3 (a) The commissioner may perform such acts, issue and amend such orders, and
4 make and amend such reasonable general or special regulations and procedure
5 and establish such minimum standards, consistent with the provisions of this
6 chapter, as he deems necessary or appropriate, and which are commensurate
7 with and for the purpose of protecting and insuring the general public interest
8 and safety, the safety of persons receiving instruction concerning, or operating,
9 using or traveling in, aircraft, and of persons and property on land or water, and
10 to develop and promote aeronautics in this state. No regulation of the
11 commissioner shall apply to airports or other air navigation facilities owned by
12 the federal government within this state.

13

14 **(b) The authority to regulate the operation of privately owned and**
15 **operated unmanned aerial vehicles, as defined in Section 15-34, is**
16 **reserved exclusively to the State. No local government or political**
17 **subdivision thereof, and no state or local agency may prohibit,**
18 **restrict, or otherwise regulate the operation of any privately owned**
19 **and operated unmanned aerial vehicles, and any such existing**
20 **prohibitions, restrictions and regulations are superseded and**
21 **invalidated retroactively, as of the effective date of this Section.**

22

23 **(c) This section does not affect Federal preemption of State law.**

