

A

friend of mine lives in a high-rise building in the Chicago area that needs window repair. He was notified by the building management company that a

drone would be flying around on certain days to assess the damage and necessary repairs needed to the outside window sashes. He was warned to take privacy precautions because the drones could possibly be taking pictures inside his condo, although that is not the purpose of the exercise.

Drones are increasingly used for business, not just by hobbyists. Television news reports often fly drones where it is too dangerous for photographers. Realty companies take aerial shots to get a better view of homes. Farmers get more expansive views of their crops. I frequently hire reconstruction experts who use drones in their work.

With drones come drone accidents, including the drone that forced the White House into lockdown after landing on the lawn on Jan. 26, 2015. One crashed into Seattle's Space Needle. A military drone crashed in Florida on July 17, 2013, shutting down a busy highway for nearly a day because of a self-destruct device that exploded.

In 2015, an aerial photographer business owner was sentenced to 30 days in jail and fined \$500 after the drone he was operating crashed into people at a parade, knocking a woman unconscious. Judge Willie Gregory of the Seattle Municipal Court found the operator guilty of reckless endangerment and that, even though the incident may not have been intentional, punishment was in order because he had "engaged in conduct that put people in danger of being injured."

Real problems have occurred when people use drones near airports, particularly when aircraft are trying to land and take off. In one incident, a drone came within about 200 feet of a Lufthansa Airbus A380 as it approached Los Angeles International Airport on March 19, 2016.

The Department of Transportation's Federal Aviation Administration said it receives about 25 reports a month of drones flying too close to manned aircraft. Recreational drones are supposed to be flying under 400 feet. The Chicago City Council prohibits the flying of drones within five miles of the city's airports and creates no-fly zones over churches, schools, hospitals, police stations and private property without the owner's consent.

On June 21, 2016, the FAA issued the first series of rules (14 CFR Part 107) regulating small unmanned aircraft that requires, among other things, that drone operators to keep the unmanned aircraft within the operator's visual line of



## FLIGHT RISKS

The emerging field of drone law

By **BOB CLIFFORD**

sight, only daylight operations are allowed, that the maximum ground speed must not exceed 100 miles per hour and no carriage of hazardous materials is allowed. This rulemaking is promulgated under the authority described in the FAA Modernization and Reform Act of 2012 (Public Law 112-95, §333).

Many states also have passed legislation holding the operator and/or owner liable for any accidents caused by drones. This could have implications for drone manufacturers and sellers as well. Possible causes of action may be negligence, strict liability for a dangerous activity and recovery for an unsafe design or manufacturing flaw and inadequate warnings or instructions. Some insurers offer drone liability insurance coverage, mostly modeled after manned aircraft policies.

H.R. 2930, The Drone Innovation Act of 2017, was introduced in the U.S. House of Representatives last year to "develop a civil unmanned policy framework" to provide guidelines for state and local governments "in creating an environment that is hospitable to innovation and fosters the rapid integration of unmanned aircraft into the national airspace system." The program would be administered by the U.S. Transportation Department. After working its way through the Committee on Transportation and Infrastructure, it was introduced in the House last June.

At the same time. Sen. Dianne Feinstein, D-

Calif., introduced S. 1272, The Drone Federalism Act of 2017. It would require the FAA prescribe regulations or standards related to unmanned aircraft systems. The bill has been referred to the Senate Committee on Commerce, Science and Transportation. Another bill in the Senate, S. 631, The Drone Aircraft Privacy and Transparency Act of 2017, also is making its way through committee. Lawmakers have until Jan. 3 to act on these bills when the 115th Congress ends.

Bard College in New York state hosts the Center for the Study of the Drone that deals with both military and civil drones ([dronecenter.bard.edu](http://dronecenter.bard.edu)).

"[W]e seek to furnish stakeholders, policymakers and the public with the resources to engage in a robust public debate and develop policies that best address those opportunities and challenges," its website reads.

Drones are here to stay. So what is the future of these small, remote-controlled aerial devices? Given terrorism, unfortunately the possibilities are endless, as are its uses for unmanned military aircraft purposes. With so few cases on the books, though, liability and privacy issues will continue to develop. CL

**Bob Clifford** is the founder of Clifford Law Offices. He practices personal injury and regularly handles complex damage cases.

[rclifford@cliffordlaw.com](mailto:rclifford@cliffordlaw.com)