

LEGAL UPDATE ON DRONES: FAA PROVIDES NEEDED GUIDANCE TO MODEL AIRPLANE HOBBYISTS

SEPTEMBER 2015

It may have been news to hobbyists that model airplanes are considered unmanned aircraft (i.e., drones) and therefore subject to Federal Aviation Authority (FAA) regulation. Although the FAA did not have the regulatory personnel to enforce its authority routinely, Advisory Circular 91-57, issued in 1981, established that the FAA had jurisdiction of model aircraft operation, including the authority to take action for operations that are careless or reckless. Through several judicial decisions in 2014, the FAA's authority to regulate the flight of model aircraft was confirmed.

Model airplane hobbyists were either unaware of or confused by the regulatory environment, although they faced possible criminal or civil liability. In early September, a Brooklyn public school teacher crashed a drone into the stands at the U.S. Open Tournament and now faces criminal charges as a consequence. Anecdotally, as drones are becoming more affordable and better, the number of incidents and near misses has skyrocketed. The FAA moved to address the situation.

On September 2, 2015, the FAA cancelled Advisory Circular 91-57 and issued a replacement Advisory Circular 9157A, updating its guidance. The replacement circular:

- Provides guidance on whether a given unmanned aircraft operation is considered "model aircraft operation";
- Describes operations that are considered careless or reckless, including operations that interfere with or do not give way to manned aircraft;
- Establishes that model aircraft operations must comply with temporary flight restrictions and may not take place in prohibited areas, special flight rule areas, or the Washington National Capital Region Flight Restricted Zone; and
- Continues the guidance that model aircraft operators limit operations to less than 400 feet above ground level.

The FAA also announced the launch of a beta version of its new smart phone app "B4UFLY." The FAA issued the beta version to approximately 1,000 users who had previously registered for the release. The app is designed to help "unmanned aircraft operators determine whether there are any restrictions or requirements in effect at the location where they want to fly."

The FAA plans to release a final version of the app by the end of fall 2015. Included among the app's features are:

- A "status" indicator that informs operators about their current or planned location (e.g., it shows that flying in the Special Flight Rules Area around Washington, DC is prohibited);
- Information on the parameters that drive the status indicator; and
- Interactive maps with filtering options including a "Planner Mode" for flights in different locations.

Although the beta version is offered in only iOS, the FAA intends to release an Android version in the future.

ADDITIONAL INFORMATION

For more information, please contact:

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