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CS/HB 1027, Engrossed 2

2017 Legislature

1
2 An act relating to unmanned devices; amending s.
3 316.003, F.S.; revising and providing definitions;
4 amending s. 316.008, F.S.; authorizing operation of
5 personal delivery devices within a county or
6 municipality under certain circumstances; providing
7 construction; providing exceptions; creating s.
8 316.2071, F.S.; providing requirements for the
9 operation of personal delivery devices; requiring
10 specified insurance coverage; amending s. 320.01,
11 F.S.; redefining the term "motor vehicle"; amending s.
12 320.02, F.S.; exempting personal delivery devices from
13 certain registration and insurance requirements;
14 amending ss. 324.021, and 324.022, F.S.; redefining
15 the term "motor vehicle"; creating s. 330.41, F.S.;
16 providing a short title; defining terms; providing
17 that, except as provided in federal regulations,
18 authorizations, or exemptions, the authority to
19 regulate the operation of unmanned aircraft systems is
20 vested in the state; prohibiting a political
21 subdivision from enacting or enforcing certain
22 ordinances or resolutions relating to unmanned
23 aircraft systems; providing that the authority of
24 local government to enact or enforce local ordinances
25 relating to nuisances, voyeurism, harassment, reckless

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26 | endangerment, property damage, or other illegal acts
27 | arising from the use of unmanned aircraft systems is
28 | not limited, subject to certain requirements;
29 | requiring persons seeking to restrict or limit the
30 | operation of drones in close proximity to certain
31 | infrastructure or facilities to apply to the Federal
32 | Aviation Administration; prohibiting a person from
33 | knowingly and willfully operating a drone over or
34 | allowing a drone to make contact with or come within a
35 | certain distance of certain critical infrastructure
36 | facilities; providing that such a violation is a
37 | misdemeanor punishable under specified provisions of
38 | ch. 775, F.S.; providing an exemption from specified
39 | prohibited acts; providing for future sunset of a
40 | certain requirement; providing construction; creating
41 | s. 330.411, F.S.; prohibiting a person from possessing
42 | or operating an unmanned aircraft or unmanned aircraft
43 | system with certain attached weapons or devices;
44 | amending s. 934.50, F.S.; providing that the use of a
45 | drone by a communications service provider or
46 | contractor is not prohibited under certain provisions
47 | of ch. 934, F.S.; amending ss. 316.2128, 316.545,
48 | 316.613, and 655.960, F.S.; conforming cross-
49 | references; providing an effective date.

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51 Be It Enacted by the Legislature of the State of Florida:

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53 Section 1. Present subsections (51) through (97) of
 54 section 316.003, Florida Statutes, are renumbered as subsections
 55 (53) through (99), respectively, present subsections (40), (55),
 56 and (95) are amended, and new subsections (51) and (52) are
 57 added to that section, to read:

58 316.003 Definitions.—The following words and phrases, when
 59 used in this chapter, shall have the meanings respectively
 60 ascribed to them in this section, except where the context
 61 otherwise requires:

62 (40) MOTOR VEHICLE.—Except when used in s. 316.1001, a
 63 self-propelled vehicle not operated upon rails or guideway, but
 64 not including any bicycle, motorized scooter, electric personal
 65 assistive mobility device, personal delivery device, swamp
 66 buggy, or moped. For purposes of s. 316.1001, "motor vehicle"
 67 has the same meaning as provided in s. 320.01(1)(a).

68 (51) PERSONAL DELIVERY DEVICE.—An electrically powered
 69 device that:

70 (a) Is operated on sidewalks and crosswalks and intended
 71 primarily for transporting property;

72 (b) Weighs less than 80 pounds, excluding cargo;

73 (c) Has a maximum speed of 10 miles per hour; and

74 (d) Is equipped with technology to allow for operation of
 75 the device with or without the active control or monitoring of a

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76 | natural person.

77 |

78 | A personal delivery device is not considered a vehicle unless
 79 | expressly defined by law as a vehicle.

80 | (52) PERSONAL DELIVERY DEVICE OPERATOR.—An entity or its
 81 | agent that exercises direct physical control over or monitoring
 82 | of the navigation system and operation of a personal delivery
 83 | device. For the purposes of this subsection, the term "agent"
 84 | means a person charged by the entity with the responsibility of
 85 | navigating and operating the personal delivery device. The term
 86 | "personal delivery device operator" does not include an entity
 87 | or person who requests the services of a personal delivery
 88 | device for the purpose of transporting property or an entity or
 89 | person who only arranges for and dispatches the requested
 90 | services of a personal delivery device.

91 | (57) ~~(55)~~ PRIVATE ROAD OR DRIVEWAY.—Except as otherwise
 92 | provided in paragraph (79) (b) ~~(77) (b)~~, any privately owned way
 93 | or place used for vehicular travel by the owner and those having
 94 | express or implied permission from the owner, but not by other
 95 | persons.

96 | (97) ~~(95)~~ VEHICLE.—Every device in, upon, or by which any
 97 | person or property is or may be transported or drawn upon a
 98 | highway, except personal delivery devices and devices used
 99 | exclusively upon stationary rails or tracks.

100 | Section 2. Subsection (7) of section 316.008, Florida

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101 Statutes, is amended to read:

102 316.008 Powers of local authorities.—

103 (7) (a) A county or municipality may enact an ordinance to
 104 permit, control, or regulate the operation of vehicles, golf
 105 carts, mopeds, motorized scooters, and electric personal
 106 assistive mobility devices on sidewalks or sidewalk areas when
 107 such use is permissible under federal law. The ordinance must
 108 restrict such vehicles or devices to a maximum speed of 15 miles
 109 per hour in such areas.

110 (b)1. Except as provided in subparagraph 2., a personal
 111 delivery device may be operated on sidewalks and crosswalks
 112 within a county or municipality when such use is permissible
 113 under federal law. This paragraph does not restrict a county or
 114 municipality from otherwise adopting regulations for the safe
 115 operation of personal delivery devices.

116 2. A personal delivery device may not be operated on the
 117 Florida Shared-Use Nonmotorized Trail Network created under s.
 118 339.81 or components of the Florida Greenways and Trails System
 119 created under chapter 260.

120 Section 3. Section 316.2071, Florida Statutes, is created
 121 to read:

122 316.2071 Personal delivery devices.—

123 (1) Notwithstanding any provision of law to the contrary,
 124 a personal delivery device may operate on sidewalks and
 125 crosswalks, subject to s. 316.008(7)(b). A personal delivery

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126 device operating on a sidewalk or crosswalk has all the rights
 127 and duties applicable to a pedestrian under the same
 128 circumstances, except that the personal delivery device must not
 129 unreasonably interfere with pedestrians or traffic and must
 130 yield the right-of-way to pedestrians on the sidewalk or
 131 crosswalk.

132 (2) A personal delivery device must:

133 (a) Obey all official traffic and pedestrian control
 134 signals and devices.

135 (b) Include a plate or marker that has a unique
 136 identifying device number and identifies the name and contact
 137 information of the personal delivery device operator.

138 (c) Be equipped with a braking system that, when active or
 139 engaged, enables the personal delivery device to come to a
 140 controlled stop.

141 (3) A personal delivery device may not:

142 (a) Operate on a public highway except to the extent
 143 necessary to cross a crosswalk.

144 (b) Operate on a sidewalk or crosswalk unless the personal
 145 delivery device operator is actively controlling or monitoring
 146 the navigation and operation of the personal delivery device.

147 (c) Transport hazardous materials as defined in s.
 148 316.003.

149 (4) A person who owns and operates a personal delivery
 150 device in this state must maintain an insurance policy, on

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151 behalf of himself or herself and his or her agents, which
 152 provides general liability coverage of at least \$100,000 for
 153 damages arising from the combined operations of personal
 154 delivery devices under the entity's or agent's control.

155 Section 4. Paragraph (a) of subsection (1) of section
 156 320.01, Florida Statutes, is amended to read:

157 320.01 Definitions, general.—As used in the Florida
 158 Statutes, except as otherwise provided, the term:

159 (1) "Motor vehicle" means:

160 (a) An automobile, motorcycle, truck, trailer,
 161 semitrailer, truck tractor and semitrailer combination, or any
 162 other vehicle operated on the roads of this state, used to
 163 transport persons or property, and propelled by power other than
 164 muscular power, but the term does not include traction engines,
 165 road rollers, personal delivery devices as defined in s.
 166 316.003, special mobile equipment as defined in s. 316.003,
 167 vehicles that run only upon a track, bicycles, swamp buggies, or
 168 mopeds.

169 Section 5. Subsection (19) is added to section 320.02,
 170 Florida Statutes, to read:

171 320.02 Registration required; application for
 172 registration; forms.—

173 (19) A personal delivery device as defined in s. 316.003
 174 is not required to satisfy the registration and insurance
 175 requirements of this section.

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176 Section 6. Subsection (1) of section 324.021, Florida
 177 Statutes, is amended to read:

178 324.021 Definitions; minimum insurance required.—The
 179 following words and phrases when used in this chapter shall, for
 180 the purpose of this chapter, have the meanings respectively
 181 ascribed to them in this section, except in those instances
 182 where the context clearly indicates a different meaning:

183 (1) MOTOR VEHICLE.—Every self-propelled vehicle that ~~which~~
 184 is designed and required to be licensed for use upon a highway,
 185 including trailers and semitrailers designed for use with such
 186 vehicles, except traction engines, road rollers, farm tractors,
 187 power shovels, and well drillers, and every vehicle that ~~which~~
 188 is propelled by electric power obtained from overhead wires but
 189 not operated upon rails, but not including any personal delivery
 190 device as defined in s. 316.003, bicycle, or moped. However, the
 191 term "motor vehicle" does ~~shall~~ not include a any motor vehicle
 192 as defined in s. 627.732(3) when the owner of such vehicle has
 193 complied with the requirements of ss. 627.730-627.7405,
 194 inclusive, unless the provisions of s. 324.051 apply; and, in
 195 such case, the applicable proof of insurance provisions of s.
 196 320.02 apply.

197 Section 7. Paragraph (a) of subsection (2) of section
 198 324.022, Florida Statutes, is amended to read:

199 324.022 Financial responsibility for property damage.—

200 (2) As used in this section, the term:

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201 (a) "Motor vehicle" means any self-propelled vehicle that
 202 has four or more wheels and that is of a type designed and
 203 required to be licensed for use on the highways of this state,
 204 and any trailer or semitrailer designed for use with such
 205 vehicle. The term does not include:

- 206 1. A mobile home.
- 207 2. A motor vehicle that is used in mass transit and
 208 designed to transport more than five passengers, exclusive of
 209 the operator of the motor vehicle, and that is owned by a
 210 municipality, transit authority, or political subdivision of the
 211 state.
- 212 3. A school bus as defined in s. 1006.25.
- 213 4. A vehicle providing for-hire transportation that is
 214 subject to the provisions of s. 324.031. A taxicab shall
 215 maintain security as required under s. 324.032(1).
- 216 5. A personal delivery device as defined in s. 316.003.

217 Section 8. Section 330.41, Florida Statutes, is created to
 218 read:

219 330.41 Unmanned Aircraft Systems Act.—

220 (1) SHORT TITLE.—This act may be cited as the "Unmanned
 221 Aircraft Systems Act."

222 (2) DEFINITIONS.—As used in this act, the term:

223 (a) "Critical infrastructure facility" means any of the
 224 following, if completely enclosed by a fence or other physical
 225 barrier that is obviously designed to exclude intruders, or if

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226 clearly marked with a sign or signs which indicate that entry is
 227 forbidden and which are posted on the property in a manner
 228 reasonably likely to come to the attention of intruders:

229 1. An electrical power generation or transmission
 230 facility, substation, switching station, or electrical control
 231 center.

232 2. A chemical or rubber manufacturing or storage facility.

233 3. A mining facility.

234 4. A natural gas or compressed gas compressor station,
 235 storage facility, or natural gas or compressed gas pipeline.

236 5. A liquid natural gas or propane gas terminal or storage
 237 facility with a capacity of 4,000 gallons or more.

238 6. Any portion of an aboveground oil or gas pipeline.

239 7. A wireless communications facility, including the
 240 tower, antennae, support structures, and all associated ground-
 241 based equipment.

242 (b) "Drone" has the same meaning as s. 934.50(2).

243 (c) "Unmanned aircraft system" means a drone and its
 244 associated elements, including communication links and the
 245 components used to control the drone which are required for the
 246 pilot in command to operate the drone safely and efficiently.

247 (3) REGULATION.—

248 (a) The authority to regulate the operation of unmanned
 249 aircraft systems is vested in the state except as provided in
 250 federal regulations, authorizations, or exemptions.

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251 (b) Except as otherwise expressly provided, a political
 252 subdivision may not enact or enforce an ordinance or resolution
 253 relating to the design, manufacture, testing, maintenance,
 254 licensing, registration, certification, or operation of an
 255 unmanned aircraft system, including airspace, altitude, flight
 256 paths, equipment or technology requirements; the purpose of
 257 operations; and pilot, operator, or observer qualifications,
 258 training, and certification.

259 (c) This subsection does not limit the authority of a
 260 local government to enact or enforce local ordinances relating
 261 to nuisances, voyeurism, harassment, reckless endangerment,
 262 property damage, or other illegal acts arising from the use of
 263 unmanned aircraft systems if such laws or ordinances are not
 264 specifically related to the use of an unmanned aircraft system
 265 for those illegal acts.

266 (d) A person or governmental entity seeking to restrict or
 267 limit the operation of drones in close proximity to
 268 infrastructure or facilities that the person or governmental
 269 entity owns or operates must apply to the Federal Aviation
 270 Administration for such designation pursuant to section 2209 of
 271 the FAA Extension, Safety, and Security Act of 2016.

272 (4) PROTECTION OF CRITICAL INFRASTRUCTURE FACILITIES.—

273 (a) A person may not knowingly or willfully:

274 1. Operate a drone over a critical infrastructure
 275 facility;

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276 2. Allow a drone to make contact with a critical
 277 infrastructure facility, including any person or object on the
 278 premises of or within the facility; or

279 3. Allow a drone to come within a distance of a critical
 280 infrastructure facility that is close enough to interfere with
 281 the operations of or cause a disturbance to the facility.

282 (b) A person who violates paragraph (a) commits a
 283 misdemeanor of the second degree, punishable as provided in s.
 284 775.082 or s. 775.083. A person who commits a second or
 285 subsequent violation commits a misdemeanor of the first degree,
 286 punishable as provided in s. 775.082 or s. 775.083.

287 (c) This subsection does not apply to actions identified
 288 in paragraph (a) which are committed by:

289 1. A federal, state, or other governmental entity, or a
 290 person under contract or otherwise acting under the direction of
 291 a federal, state, or other governmental entity.

292 2. A law enforcement agency that is in compliance with s.
 293 934.50, or a person under contract with or otherwise acting
 294 under the direction of such law enforcement agency.

295 3. An owner, operator, or occupant of the critical
 296 infrastructure facility, or a person who has prior written
 297 consent of such owner, operator, or occupant.

298 (d) Subparagraph (a)1. does not apply to a drone operating
 299 in transit for commercial purposes in compliance with Federal
 300 Aviation Administration regulations, authorizations, or

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301 exemptions.

302 (e) This subsection shall sunset 60 days after the date
 303 that a process pursuant to Section 2209 of the FAA Extension,
 304 Safety and Security Act of 2016 becomes effective.

305 (5) CONSTRUCTION.—This section shall be construed in
 306 accordance with standards imposed by federal statutes,
 307 regulations, and Federal Aviation Administration guidance on
 308 unmanned aircraft systems.

309 Section 9. Section 330.411, Florida Statutes, is created
 310 to read:

311 330.411 Prohibited possession or operation of unmanned
 312 aircraft.—A person may not possess or operate an unmanned
 313 aircraft or unmanned aircraft system as defined in s. 330.41
 314 with an attached weapon, firearm, explosive, destructive device,
 315 or ammunition as defined in s. 790.001.

316 Section 10. Paragraph (j) is added to subsection (4) of
 317 section 934.50, Florida Statutes, to read:

318 934.50 Searches and seizure using a drone.—

319 (4) EXCEPTIONS.—This section does not prohibit the use of
 320 a drone:

321 (j) By a communications service provider or a contractor
 322 for a communications service provider for routing, siting,
 323 installation, maintenance, or inspection of facilities used to
 324 provide communications services.

325 Section 11. Subsection (1) of section 316.2128, Florida

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326 Statutes, is amended to read:

327 316.2128 Operation of motorized scooters and miniature
328 motorcycles; requirements for sales.—

329 (1) A person who engages in the business of, serves in the
330 capacity of, or acts as a commercial seller of motorized
331 scooters or miniature motorcycles in this state must prominently
332 display at his or her place of business a notice that such
333 vehicles are not legal to operate on public roads, may not be
334 registered as motor vehicles, and may not be operated on
335 sidewalks unless authorized by an ordinance enacted pursuant to
336 s. 316.008(7) (a) ~~316.008(7)~~ or s. 316.212(8). The required
337 notice must also appear in all forms of advertising offering
338 motorized scooters or miniature motorcycles for sale. The notice
339 and a copy of this section must also be provided to a consumer
340 prior to the consumer's purchasing or becoming obligated to
341 purchase a motorized scooter or a miniature motorcycle.

342 Section 12. Paragraph (b) of subsection (2) of section
343 316.545, Florida Statutes, is amended to read:

344 316.545 Weight and load unlawful; special fuel and motor
345 fuel tax enforcement; inspection; penalty; review.—

346 (2)

347 (b) The officer or inspector shall inspect the license
348 plate or registration certificate of the commercial vehicle to
349 determine whether its gross weight is in compliance with the
350 declared gross vehicle weight. If its gross weight exceeds the

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351 declared weight, the penalty shall be 5 cents per pound on the
352 difference between such weights. In those cases when the
353 commercial vehicle is being operated over the highways of the
354 state with an expired registration or with no registration from
355 this or any other jurisdiction or is not registered under the
356 applicable provisions of chapter 320, the penalty herein shall
357 apply on the basis of 5 cents per pound on that scaled weight
358 which exceeds 35,000 pounds on laden truck tractor-semitrailer
359 combinations or tandem trailer truck combinations, 10,000 pounds
360 on laden straight trucks or straight truck-trailer combinations,
361 or 10,000 pounds on any unladen commercial motor vehicle. A
362 driver of a commercial motor vehicle entering the state at a
363 designated port-of-entry location, as defined in s. 316.003
364 ~~316.003(54)~~, or operating on designated routes to a port-of-
365 entry location, who obtains a temporary registration permit
366 shall be assessed a penalty limited to the difference between
367 its gross weight and the declared gross vehicle weight at 5
368 cents per pound. If the license plate or registration has not
369 been expired for more than 90 days, the penalty imposed under
370 this paragraph may not exceed \$1,000. In the case of special
371 mobile equipment, which qualifies for the license tax provided
372 for in s. 320.08(5)(b), being operated on the highways of the
373 state with an expired registration or otherwise not properly
374 registered under the applicable provisions of chapter 320, a
375 penalty of \$75 shall apply in addition to any other penalty

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376 | which may apply in accordance with this chapter. A vehicle found
 377 | in violation of this section may be detained until the owner or
 378 | operator produces evidence that the vehicle has been properly
 379 | registered. Any costs incurred by the retention of the vehicle
 380 | shall be the sole responsibility of the owner. A person who has
 381 | been assessed a penalty pursuant to this paragraph for failure
 382 | to have a valid vehicle registration certificate pursuant to the
 383 | provisions of chapter 320 is not subject to the delinquent fee
 384 | authorized in s. 320.07 if such person obtains a valid
 385 | registration certificate within 10 working days after such
 386 | penalty was assessed.

387 | Section 13. Paragraph (a) of subsection (2) of section
 388 | 316.613, Florida Statutes, is amended to read:

389 | 316.613 Child restraint requirements.—

390 | (2) As used in this section, the term "motor vehicle"
 391 | means a motor vehicle as defined in s. 316.003 that is operated
 392 | on the roadways, streets, and highways of the state. The term
 393 | does not include:

394 | (a) A school bus as defined in s. 316.003 ~~316.003(68)~~.

395 | Section 14. Subsection (1) of section 655.960, Florida
 396 | Statutes, is amended to read:

397 | 655.960 Definitions; ss. 655.960-655.965.—As used in this
 398 | section and ss. 655.961-655.965, unless the context otherwise
 399 | requires:

400 | (1) "Access area" means any paved walkway or sidewalk

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401 | which is within 50 feet of any automated teller machine. The
402 | term does not include any street or highway open to the use of
403 | the public, as defined in s. 316.003(79)(a) or (b)
404 | ~~316.003(77)(a) or (b)~~, including any adjacent sidewalk, as
405 | defined in s. 316.003.

406 | Section 15. This act shall take effect July 1, 2017.

407 |