

ALERT

Just in Time for the Holidays, Drone Registration is Back

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Thinking of gifting a drone this holiday season? Drone owners should be aware that a new law brings back Federal Aviation Administration (FAA) rules requiring hobbyists to register their drones. The application of the FAA's drone registration rules to hobbyist drone owners had previously been vacated by the U.S. Court of Appeals for the District of Columbia in the *Taylor v. Huerta* case. But going forward, *all* consumer drones weighing between 0.55 and 55 pounds will need to be registered with the FAA.

On Tuesday, President Trump signed the National Defense Authorization Act (NDAA), which approved spending levels for U.S. military efforts for fiscal year 2018. Tucked into the 740-page Act was a provision restoring the FAA's 2015 registration and marking requirements for small hobbyist drones, also known as unmanned aircraft systems or "UAS." (H.R. 2810-329 § 1092(d)).

Back in December 2015, the FAA published an "interim final rule" creating an online registration process for owners of small UAS (those weighing under 55 pounds). The requirements applied to persons using the UAS as a model aircraft (i.e., for hobby and recreational purposes) and those using the UAS for other purposes (i.e., for commercial purposes or as a public aircraft). Owners registering UAS operated exclusively as model aircraft were required to pay a flat \$5 registration fee to register their fleet of drones. This rule was challenged on the basis that Section 336 of the FAA Modernization and Reform Act of 2012—which prohibits the FAA from "promulgat[ing] any rule or regulation regarding a model aircraft"—barred the FAA from applying its registration rules to model aircraft owners. The D.C. Circuit Court of Appeals agreed, rejecting the FAA's authority to compel model aircraft operators to register and vacating the interim

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final rule as applied to such operators. Since then, the FAA has encouraged users flying drones as model aircraft to voluntarily register.

The NDAA restores the vacated registration and marking requirements as of enactment of the new legislation. Going forward, hobbyist drone owners will need to register their aircraft by providing their name, address, and email address. At the completion of registration, owners will receive a unique registration number which must be affixed to the aircraft during operations and be readily accessible and legible upon visual inspection. Unless the FAA amends its rule, it is likely that the FAA will again be collecting a \$5 registration fee from hobbyist drone owners.

All small UAS owners should also note that the penalties for failure to comply are steep. Under the restored rules, failure to register could result in civil penalties up to \$27,500 and criminal penalties including fines of up to \$250,000 and/or imprisonment up to three years. The FAA has yet to impose a fine on a UAS operator for failing to register, although it has issued guidance to local law enforcement to aid in enforcing UAS-related regulations, including the registration requirements.