

**REPORT OF THE
SECRETARY OF COMMERCE AND TRADE**

**Report on the Impact of Chapters
851 and 852, 2018 Regular Session,
on Unmanned Aircraft Research,
Innovation and Economic
Development (Chapter 852, 2018)**

**TO THE GOVERNOR AND
THE GENERAL ASSEMBLY OF VIRGINIA**



SENATE DOCUMENT NO. 9

**COMMONWEALTH OF VIRGINIA
RICHMOND
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Report to Governor of Virginia and General Assembly on the impact of Chapters 851 and 852, 2018 Session on unmanned aircraft research, innovation and economic development

This report is submitted to comply with Chapters 851 (HB638) and 852 (SB526) of the 2018 session. Those chapters contain the following enactment clause:

3. That the Secretary of Commerce and Trade, in consultation with the Virginia Economic Development Partnership, shall study the impact of this act on unmanned aircraft research, innovation, and economic development in Virginia and report to the Governor and General Assembly no later than November 1, 2019.

Chapter 617 of the 2018 session directed the Virginia Department of Aviation to convene a work group of all interests involved in or affected by unmanned aviation systems (UAS) to explore UAS activities. The report required by Chapters 851 and 852 are a part of the larger study. With permission of the Secretary of Commerce and Trade, the UAS work group took on the obligation set out in the 3rd enactment, quoted above and has evaluated the code sections created by Chapters 851 and 852 of the 2018 session.

A guiding principle of the group was that law or regulation that inhibits a prospective UAS commercial operation from considering Virginia or that inhibits expansion of the operations of an existing UAS commercial operation should be avoided, if at all possible. Further, laws and regulations that enhance the attractiveness of the Commonwealth for new businesses and expansions by existing businesses should be enacted and protected.

The 2018 legislation in Chapters 851 and 852 enacted Va. Code §§ 18.2-121.3 and 18.2-324.2 and amended §15.2-926.3. Each is discussed below.

Section 15.2-926.3, as amended in 2018, prohibits any local political subdivision from regulating UAS. The amendment changed the entities subject to the section from “localit(ies) to “political subdivisions”. The work group determined that the section avoids conflicting regulations of UAS operations across Virginia and provides needed uniformity, and that such uniformity is important to the development of commercial UAS in Virginia. The group is of the opinion that the code section should not be altered.

Section 18.2-121.3 provides

A. Any person who knowingly and intentionally causes an unmanned aircraft system to enter the property of another and come within 50 feet of a dwelling house (i) to coerce, intimidate, or harass another person or (ii) after having been given actual notice to desist, for any other reason, is guilty of a Class 1 misdemeanor.

B. This section shall not apply to any person who causes an unmanned aircraft system to enter the property as set forth in subsection A if (i) consent is given to the entry by any person with legal authority to consent or by any person who is lawfully present on such property or (ii) such person is authorized by federal regulations to operate an unmanned

aircraft system and is operating such system in an otherwise lawful manner and consistent with federal regulations.

The group identified that subsection A would have a potential for inhibiting economic development, and could have a chilling effect on potential and existing businesses, **but for** the exception in subsection B. Subsection B protects potential and existing commercial operators to the extent that the section does not need to be amended or abolished.

Section 18.2-324.2 provides

A. It is unlawful for any person who is required to register pursuant to § 9.1-901 to use or operate an unmanned aircraft system to knowingly and intentionally (i) follow or contact another person without permission of such person or (ii) capture the images of another person without permission of such person when such images render the person recognizable by his face, likeness, or other distinguishing characteristic.

B. It is unlawful for a respondent of a protective order issued pursuant to § 16.1-279.1 or 19.2-152.10 to knowingly and intentionally use or operate an unmanned aircraft system to follow, contact, or capture images of the petitioner of the protective order or any other individual named in the protective order.

C. A violation of this section is a Class 1 misdemeanor.

The group recommends no change to this section. For the reasons explained below, the section does not create problems for potential or existing businesses.

Subsection A of 18.2-324.2 applies only to registered sex offenders. For commercial operators, the hiring of a registered sex offender will be extremely rare. Further, the section does not prohibit all UAS operations by a registered sex offender, but only those tracking a person without permission.

Similarly, subsection B is limited to persons who are subject of a protective order due to violence or threats towards another person, especially family members. As with §18.2-324.2, the work group is of the opinion that prospective businesses will not see this restriction as limiting their coming to Virginia and existing businesses will not be harmed.

The members of the work group who participated in negotiating the language of Chapters 851 and 852 advised the group that the legislation was a compromise among various interests and that the commercial UAS operators and associations that were involved accepted the language in the three code sections. Accordingly, the parties affected by the legislation reached a workable set of rules when the legislation was enacted.

For the reasons stated, the two provisions of Title 18.2 quoted above do not need amendment or repeal.

The Virginia Economic Development Partnership participated in the UAS work group and the development of this report, along with the Mid Atlantic Aviation Partnership, Unmanned Systems Association of Virginia, the Northern Virginia Technology Council, The Association for Unmanned Vehicles Systems International, DJI (major UAS manufacturer), the Center for Innovative Technology and other industry and government UAS professionals.

