

AMENDMENT TO H.R. 2997
OFFERED BY MR. LEWIS OF MINNESOTA

Add at the end of subtitle B of title IV the following:

1 SEC. ____ DRONE INNOVATION.

2 (a) DEFINITIONS.—In this section the following definitions apply:

4 (1) CIVIL AIRCRAFT.—The term “civil aircraft” with respect to an unmanned aircraft system, means that the unmanned aircraft is not a public aircraft as defined in section 40102 of title 49, United States Code.

9 (2) LOCAL GOVERNMENT.—The term “local government” means a unit of government that is a subdivision of a State, such as city, county, or parish.

13 (3) LOCAL OPERATION.—The terms “local operation” and “local in nature” refer to flights or portions of civil unmanned aircraft that occur in airspace—

17 (A) up to 200 feet above ground level; and

18 (B) the lateral boundaries of a State, local or Tribal government’s jurisdiction.

1 (4) STATE.—The term “State” means each of
2 the several States, the District of Columbia, and the
3 territories and possessions of the United States.

4 (5) TRIBAL GOVERNMENT.—The term “Tribal
5 Government” means the governing body of an In-
6 dian Tribe (as defined in section 4 the Indian Self-
7 Determination and Education Assistance Act (25
8 U.S.C. 5304)).

9 (b) CIVIL UNMANNED AIRCRAFT POLICY FRAME-
10 WORK.—

11 (1) IN GENERAL.—Not later than 6 months
12 after the date of enactment of this Act, the Sec-
13 retary of Transportation shall, after consultation
14 with State, local, and Tribal officials, and other ap-
15 propriate stakeholders, publish a civil unmanned air-
16 craft local operation policy framework in the Federal
17 Register.

18 (2) CONTENTS.—The policy framework re-
19 quired pursuant to paragraph (1) shall—

20 (A) provide guidelines to aid States, local
21 and Tribal governments in harmonizing and, to
22 the degree possible, standardizing reasonable
23 time, manner, and place limitations and other
24 restrictions on operations of civil and small un-
25 manned aircraft that are local in nature;

1 (B) take into account the economic and
2 non-economic benefits, such as civic or edu-
3 cational uses, of small or civil unmanned air-
4 craft operations;

5 (C) provide guidelines to aid States, local,
6 and Tribal governments in creating an environ-
7 ment that is hospitable to innovation and fos-
8 ters the rapid integration of unmanned aircraft
9 safely into the national airspace system; and

10 (D) aid States, local, and Tribal govern-
11 ments in adopting technologies, such as un-
12 manned traffic management systems, that will
13 enable notification to operators regarding rea-
14 sonable time, manner, and place limitations on
15 operations of civil and small unmanned aircraft
16 that are local in nature.

17 (3) ANALYSIS.—In crafting the policy frame-
18 work and in prescribing any future regulations or
19 standards related to civil unmanned aircraft sys-
20 tems, the Secretary of Transportation shall define
21 the scope of the preemptive effect of any civil un-
22 manned aircraft regulations or standards pursuant
23 to section 40103 or 41713 of title 49, United States
24 Code. Such regulations or standards shall be limited
25 to the extent necessary to ensure the safety and effi-

1 ciency of the national airspace system for interstate
2 commerce, and shall preserve the legitimate interests
3 of State, local, and Tribal governments, including—

4 (A) protecting public safety;

5 (B) protecting personal privacy;

6 (C) protecting property rights;

7 (D) managing land use; and

8 (E) restricting nuisances and noise pollu-
9 tion.

10 (4) LIMITATIONS.—In formulating and imple-
11 menting the policy framework required pursuant to
12 paragraph (1) and any future regulations, policies or
13 standards related to civil unmanned aircraft sys-
14 tems, the Secretary shall abide by and be guided by
15 the following fundamental principles:

16 (A) Any limitation on small or civil un-
17 manned aircraft should be consistent with
18 maintaining the safe and efficient use of the
19 navigable airspace and the legitimate interests
20 of State, local, and Tribal governments.

21 (B) Innovation and competition are best
22 served by a diverse and competitive small and
23 civil unmanned aircraft systems industry.

1 (C) Any limitation on small or civil un-
2 manned aircraft should not create an unreason-
3 able burden on interstate or foreign commerce.

4 (D) The operation of small and civil un-
5 manned aircraft systems that are local in na-
6 ture have more in common with terrestrial
7 transportation than traditional aviation.

8 (E) As it relates to the time, manner, and
9 place of unmanned aircraft local operations,
10 and the need to foster innovation, States, local,
11 and Tribal governments uniquely possess the
12 constitutional authority, the resources, and the
13 competence to discern the sentiments of the
14 people and to govern accordingly.

15 (F) Relying upon technology solutions,
16 such as unmanned traffic management, pro-
17 vided by private industry, will effectively solve
18 policy challenges.

19 (G) State, local and Tribal officials are
20 best positioned to make judgments and issue
21 dynamic limitations around events, including,
22 fires, accidents and other first responder activ-
23 ity, public gatherings, community events, pedes-
24 trian thoroughfares, recreational activities, cul-
25 tural activities, heritage sites, schools, parks

1 and other inherently local events and locations,
2 which may justify limiting unmanned aircraft
3 activity that is local in nature while balancing
4 the activities or events against the need for in-
5 novation.

6 (H) The economic and non-economic bene-
7 fits, of small and civil unmanned aircraft oper-
8 ations may be best achieved by empowering the
9 State, local, and Tribal governments to create a
10 hospitable environment to welcome innovation.

11 (I) Innovation and competition in the un-
12 manned aircraft industry are best served ena-
13 bling State, local, and Tribal governments to
14 experiment with a variety of approaches to poli-
15 cies related to unmanned aircraft.

16 (J) The Department of Transportation
17 shall, when making policy related to small or
18 civil unmanned aircraft systems, recognize that
19 problems that are merely common to the State,
20 local, and Tribal governments will not justify
21 Federal action because individual State, local
22 and Tribal governments, acting individually or
23 together, can effectively deal with such prob-
24 lems and may find and implement more innova-
25 tion friendly policies than Federal agencies.

1 (K) The Department shall, when making
2 policy related to small or civil unmanned air-
3 craft systems, provide timely information and
4 assistance to State, local, and Tribal govern-
5 ments that will ensure collaboration.

6 (c) PILOT PROGRAM ON FEDERAL PARTNERSHIPS.—

7 (1) IN GENERAL.—Not later than 9 months
8 after the date of the enactment of this Act, the Sec-
9 retary of Transportation shall enter into agreements
10 with not less than 20 and not more than 30 State,
11 local, or Tribal governments to establish pilot pro-
12 grams under which the Secretary shall provide tech-
13 nical assistance to such governments in regulating
14 the operation of small and civil unmanned aircraft
15 systems, including through the use of the latest
16 available technologies for unmanned traffic manage-
17 ment, notice, authorization, and situational aware-
18 ness with respect to reasonable time, manner, and
19 place limitations and restrictions pursuant to sub-
20 section (b).

21 (2) SELECTION.—In selecting among State,
22 local and Tribal governments for purposes of estab-
23 lishing pilot programs under paragraph (1), the Sec-
24 retary shall seek to enter into agreements with—

1 (A) governments of various sizes that pro-
2 pose different intended approaches to regulation
3 of small and civil unmanned aircraft systems;

4 (B) governments that demonstrate a will-
5 ingness to partner with technology providers
6 and small and civil unmanned aircraft opera-
7 tors; and

8 (C) at least 2 of each of the following:
9 State governments, county governments, city
10 governments, and Tribal Governments.

11 (3) UNMANNED AIRCRAFT SYSTEMS TRAFFIC
12 MANAGEMENT SYSTEM.—The Secretary shall coordi-
13 nate with the Administrator of the National Aero-
14 nautics and Space Administration to ensure that
15 participants in pilot programs established under
16 paragraph (1) are consulted in the development of
17 the unmanned aircraft systems traffic management
18 system under section 2208 of the FAA Extension,
19 Safety, and Security Act of 2016 (Public Law 114–
20 190, 49 U.S.C. 40101 note) and the pilot program
21 under subsection (b) of such section.

22 (4) REPORT REQUIRED.—Not later than 18
23 months after establishment of the pilot programs re-
24 quired by paragraph (1), the Secretary shall coordi-
25 nate with pilot program participants to submit to

1 Congress, and make available to the public, a report
2 identifying best practices for State, local, and Tribal
3 governments to regulate the operation of small and
4 civil unmanned aircraft systems and to collaborate
5 with the Federal Aviation Administration with re-
6 spect to the regulation of such systems.

7 (d) PRESERVATION.—

8 (1) RIGHTS TO PRIVACY.—In prescribing regu-
9 lations or standards related to civil or small un-
10 manned aircraft systems, the Secretary shall not au-
11 thorize the local operation of a small or civil un-
12 manned aircraft above property where there is a rea-
13 sonable expectation of privacy without permission of
14 the property owner.

15 (2) CAUSES OF ACTION, CLAIMS, AND REM-
16 EDIES.—

17 (A) IN GENERAL.—Nothing in this section
18 shall be construed to preempt, displace, or sup-
19 plant any Federal, State, or Tribal common law
20 rights or any Federal, State, or Tribal statute
21 or common law right creating a remedy for civil
22 relief, including those for civil damages, or a
23 penalty for a criminal law.

24 (B) CAUSE OF ACTIONS UPHELD.—Noth-
25 ing in this section shall preempt or preclude

1 any cause of action for personal injury, wrong-
2 ful death, property damage, inverse condemna-
3 tion, trespass, nuisance or other injury based on
4 negligence, strict liability, products liability,
5 failure to warn, or any other legal theory of li-
6 ability under any maritime law, or any Federal,
7 State, or Tribal common law or statutory the-
8 ory, except that no cause of action, claim or
9 remedy may be made solely because of the tran-
10 sit of an unmanned aircraft in local operation
11 over private property in the absence of proof
12 that such transit substantially interfered with
13 the owner or lessee's use or enjoyment of the
14 property or the unmanned aircraft in local oper-
15 ation repeatedly transited the airspace above
16 the owner's property.

17 (3) PRIVATE AIRSPACE.—Notwithstanding any
18 other provision of law, the Secretary shall not issue
19 any rule or regulation that impedes or operates con-
20 trary to the authority of a State, local, or Tribal
21 government to define private property rights as it
22 applies to unmanned aircraft in the airspace above
23 property that is local in nature.

24 (4) RIGHTS TO OPERATE.—A State or local
25 government may not unreasonably or substantially

1 impede the ability of a civil unmanned aircraft, from
2 reaching the navigable airspace. Unreasonable or
3 substantial impeding of a civil unmanned aircraft
4 from reaching the navigable airspace includes—

5 (A) outright bans on overflights of the en-
6 tirety of the lateral boundaries of a State or
7 local government’s jurisdiction;

8 (B) excessively large prohibitions on over-
9 flights of areas of local significance such that
10 access to airspace is so impeded as to make
11 flight within the lateral boundaries of a State
12 or local government’s jurisdiction nearly impos-
13 sible; and

14 (C) a combination of restrictions intended
15 to unreasonably impede or having the practical
16 effect of unreasonably impeding the ability of a
17 civil unmanned aircraft from reaching the navi-
18 gable airspace.

19 (5) RIGHT OF WAY.—Nothing in this section
20 shall be construed to prevent or limit an operator or
21 his authorized designee from local operation of a
22 small or civil unmanned aircraft over their own
23 property, right of way, easement, lands, or waters.

24 (e) STATUTORY CONSTRUCTION.—

1 (1) JUDICIAL REVIEW.—An action taken by the
2 Secretary of Transportation under this section is
3 subject to judicial review as provided under section
4 46110 of title 49, United States Code.

5 (2) CIVIL AND CRIMINAL JURISDICTION.—Noth-
6 ing in this section (including the amendments made
7 by this Act) may be construed to diminish or expand
8 the civil or criminal jurisdiction of—

9 (A) any Tribal Government relative to any
10 State or local government; or

11 (B) any State or local government relative
12 to any Tribal Government.

13 (3) LIMITATION.—Nothing in this section (in-
14 cluding the amendments made by this Act) may be
15 construed to—

16 (A) affect manned aircraft operations or
17 the authority of the Federal Aviation Authority
18 (in this section referred to as “FAA”) with re-
19 spect to manned aviation;

20 (B) affect the right of the FAA to take
21 emergency action, including the right to issue
22 temporary flight restrictions;

23 (C) affect the right of the FAA to pursue
24 enforcement action against unsafe unmanned
25 aircraft operators; and

- 1 (D) affect the right of first responders to
- 2 access airspace in the event of an emergency.

