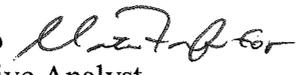


**REPORT OF THE
CHIEF LEGISLATIVE ANALYST**

DATE: March 31, 2016

TO: Honorable Members of the Rules, Elections, Intergovernmental Relations and Neighborhoods Committee

FROM: Sharon M. Tso  Chief Legislative Analyst Council File No: 15-0002-S143
Assignment No: 16-03-0259

SUBJECT: Resolution (Wesson – Englander – O’Farrell) in opposition to Section 2142 of S. 2658 (Thune)

CLA RECOMMENDATION: Adopt Resolution (Wesson – Englander – O’Farrell) to include in the City’s 2015 – 2016 Federal Legislative Program OPPOSITION to Section 2142 of S. 2658 (Thune), the Federal Aviation Administration (FAA) Reauthorization Act of 2016, or any other similar provision.

SUMMARY

On March 23, 2016, a Resolution (Wesson – Englander – O’Farrell) was introduced in opposition to Section 2142 of S. 2658, or any other similar provision of federal legislation, which would prohibit state or local governments from enacting laws or ordinances to regulate the operation of Unmanned Aircraft Systems (UAS), also known as drones. The Resolution states that while the FAA is responsible for regulating UAS, local governments are not currently preempted from enacting their own regulations. The Resolution further states that many jurisdictions, including the City of Los Angeles, have found it necessary to enact their own regulations.

The Resolution states that it is difficult for the federal government and its agencies to determine what types of restrictions or regulations are best in certain areas, and because of this, these choices should be left to local governments. The Resolution, therefore, seeks an official position of the City of Los Angeles to oppose Section 2142 of S. 2658 (Thune), the FAA Reauthorization Act of 2016, or any other similar provision, that would prohibit state or local governments from enacting laws or ordinances to regulate the operation of UAS in their jurisdictions.

BACKGROUND

Section 2142 of S. 2658 would preempt state and local governments from enacting or enforcing any law or ordinance relating to the design, manufacture, testing, licensing, registration, certification, operation, or maintenance of UAS. If approved, this provision would prohibit cities and states that have enacted rules regulating the use of UAS from enforcing them, and establish a one size fits all approach to UAS regulations across the United States.

On October 14, 2015, the City of Los Angeles adopted Ordinance No. 183912, imposing restrictions consistent with certain federal aviation rules on the use of UAS within City limits. The ordinance makes it a misdemeanor to operate UAS in a manner that is prohibited by any federal statute or regulation, or in a careless or reckless manner. This Ordinance was needed because no criminal penalties existed in California for the improper use of UAS, and the misuse of the devices

has become increasingly problematic over the last few years. The City's Ordinance does not impose any restrictions in addition to federal restrictions, but does give the Police Department a tool to use against reckless UAS operators.

Further, as use of UAS grows, in particular the commercial use of these devices, cities such as Los Angeles may find it necessary to enact further restrictions on the use of these devices in order to protect the safety of the public and of property. As written, S. 2658 would prohibit cities from enacting any sort of regulations, and impose a top-down regulatory scheme on jurisdictions of all sizes across the United States.

While the Federal Government, through the FAA, is solely responsible for the regulation of airspace and is better suited to regulate the design and manufacture of these devices than local governments, local and state governments are better equipped to understand local issues and needs related to the operation of UAS. Federal preemption would have a detrimental effect and is opposed by both the National League of Cities and the United States Conference of Mayors.

DEPARTMENTS NOTIFIED

City Attorney's Office

BILL STATUS

03/09/2016	Bill introduced, read twice and referred to the Senate Committee on Commerce, Science, and Transportation
03/16/2016	Committee on Commerce, Science, and Transportation. Ordered to be reported with an amendment in the nature of a substitute favorably.
03/10/2016	Senate Committee on Business and Entrepreneurship. Hearings held.


Joshua W. Drake
Analyst

SMT:MF:jwd

Attachment: Resolution (Wesson – Englander – O'Farrell)

RESOLUTION RULES, ELECTIONS & INTERGOVERNMENTAL RELATIONS

WHEREAS, any official position of the City of Los Angeles with respect to legislation, rules, regulations or policies proposed to or pending before a local, state or federal governmental body or agency must have first been adopted in the form of a Resolution by the City Council with the concurrence of the Mayor; and

WHEREAS, while the Federal Aviation Administration (FAA) is responsible for regulating Unmanned Aircraft Systems (UAS), also known as drones, local jurisdictions are not preempted by law from enacting their own regulations; and

WHEREAS, some jurisdictions, including the City of Los Angeles, have found it necessary to enact regulations on the use of UAS, in order to ensure that they are used in a safe manner; and

WHEREAS, Section 2142 of S. 2658 (Thune), the FAA Reauthorization Act of 2016, would expressly prohibit state and local governments from enacting their own regulations on the use of UAS; and

WHEREAS, often, it is difficult for the federal government and its agencies to determine what types of restrictions or regulations are best in certain areas, so these choices should be left to local jurisdictions; and

WHEREAS, in December 2015, the City of Los Angeles adopted an ordinance (C.F. 15-0927) imposing safety requirements and restrictions on the operation of UAS in the City, in order to mitigate the risks associated with these devices and ensure the safety of the public and property; and

WHEREAS, the City of Los Angeles should have the ability to regulate the use of UAS within City limits, without being preempted by federal law;

NOW, THEREFORE, BE IT RESOLVED, with the concurrence of the Mayor, that by the adoption of this Resolution, the City of Los Angeles hereby includes in its 2015 - 2016 Federal Legislative Program OPPOSITION to Section 2142 of S. 2658 (Thune), the Federal Aviation Administration (FAA) Reauthorization Act of 2016, or any other similar provision, that would prohibit state or local governments from enacting laws or ordinances to regulate the operation of Unmanned Aircraft Systems (UAS) in their jurisdictions.

PRESENTED BY: 
HERB J. WESSON, JR.
Councilmember, 10th District

PRESENTED BY: 
MITCHELL ENGLANDER
Councilmember, 12th District


ORIGINAL

SECONDED BY: 

jwd

MAR 23 2016