To develop a civil unmanned aircraft policy framework, a pilot program, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 16, 2017

Mr. LEWIS of Minnesota (for himself, Ms. BROWNLEY of California, Mr. ROKITA, and Mr. GARAMENDI) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure

A BILL

To develop a civil unmanned aircraft policy framework, a pilot program, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Drone Innovation Act of 2017”.

SEC. 2. DEFINITIONS.

In this Act the following definitions apply:

(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.

(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.

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

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

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

(4) SMALL UNMANNED AIRCRAFT.—The term “small unmanned aircraft” has the same meaning as such term is defined in section 331(6) of the FAA Reform and Modernization Act of 2012.

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

(6) TRIBAL GOVERNMENT.—The term “Tribal Government” means the governing body of an Indian Tribe (as defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5304)).
SEC. 3. CIVIL UNMANNED AIRCRAFT POLICY FRAMEWORK.

(a) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the Secretary of Transportation shall, after consultation with State, local, and Tribal officials, and other appropriate stakeholders, publish a civil unmanned aircraft local operation policy framework in the Federal Register.

(b) CONTENTS.—The policy framework required pursuant to subsection (a) shall—

(1) provide guidelines to aid States, local, and Tribal governments in harmonizing and, to the degree possible, standardizing reasonable time, manner, and place limitations and other restrictions on operations of civil and small unmanned aircraft that are local in nature;

(2) take into account the economic and non-economic benefits, such as civic or educational uses, of small or civil unmanned aircraft operations;

(3) provide guidelines to aid States, local, and Tribal governments in creating an environment that is hospitable to innovation and fosters the rapid integration of unmanned aircraft into the national airspace system; and

(4) aid States, local, and Tribal governments in adopting technologies, such as unmanned traffic management systems, that will enable notification to
operators regarding reasonable time, manner, and
place limitations on operations of civil and small un-
manned aircraft that are local in nature.

(c) ANALYSIS.—In crafting the policy framework and
in prescribing any future regulations or standards related
to civil unmanned aircraft systems, the Secretary of
Transportation shall define the scope of the preemptive
effect of any civil unmanned aircraft regulations or stand-
ards pursuant to section 40103 or 41713 of title 49,
United States Code. Such regulations or standards shall
be limited to the extent necessary to ensure the safety and
efficiency of the national airspace system for interstate
commerce, and shall preserve the legitimate interests of
State, local, and Tribal governments, including—

(1) protecting public safety;

(2) protecting personal privacy;

(3) protecting property rights;

(4) managing land use; and

(5) restricting nuisances and noise pollution.

(d) LIMITATIONS.—In formulating and implementing
the policy framework required pursuant to subsection (a)
and any future regulations, policies or standards related
to civil unmanned aircraft systems, the Secretary shall
abide by and be guided by the following fundamental prin-
ciples:
(1) Any limitation on small or civil unmanned aircraft should be consistent with maintaining the safe use of the navigable airspace and the legitimate interests of State, local, and Tribal governments.

(2) Innovation and competition are best served by a diverse and competitive small and civil unmanned aircraft systems industry.

(3) Any limitation on small or civil unmanned aircraft should not create an unreasonable burden on interstate or foreign commerce.

(4) The operation of small and civil unmanned aircraft systems that are local in nature have more in common with terrestrial transportation than traditional aviation.

(5) As it relates to the time, manner, and place of unmanned aircraft local operations, and the need to foster innovation, States, local, and Tribal governments uniquely possess the constitutional authority, the resources, and the competence to discern the sentiments of the people and to govern accordingly.

(6) Relying upon technology solutions, such as unmanned traffic management, provided by private industry, will effectively solve policy challenges.

(7) State, local and Tribal officials are best positioned to make judgments and issue dynamic limi-
tations around events, including, fires, accidents and
other first responder activity, public gatherings, 
community events, pedestrian thoroughfares, recrea-
tional activities, cultural activities, heritage sites, 
schools, parks and other inherently local events and 
locations, which may justify limiting unmanned air-
craft activity that is local in nature while balancing 
the activities or events against the need for innova-
tion.

(8) The economic and non-economic benefits, of 
small and civil unmanned aircraft operations may be 
best achieved by empowering the State, local, and 
Tribal governments to create a hospitable environ-
ment to welcome innovation.

(9) Innovation and competition in the un-
manned aircraft industry are best served enabling 
State, local, and Tribal governments to experiment 
with a variety of approaches to policies related to 
unmanned aircraft.

(10) The Department of Transportation shall, 
when making policy related to small or civil un-
manned aircraft systems, recognize that problems 
that are merely common to the State, local, and 
Tribal governments will not justify Federal action 
because individual State, local, and Tribal govern-
ments, acting individually or together, can effectively deal with such problems and may find and implement more innovation friendly policies than Federal agencies.

(11) The Department shall, when making policy related to small or civil unmanned aircraft systems, provide timely information and assistance to State, local, and Tribal governments that will ensure collaboration.

SEC. 4. PILOT PROGRAM ON FEDERAL PARTNERSHIPS.

(a) IN GENERAL.—Not later than 9 months after the date of the enactment of this Act, the Secretary of Transportation shall enter into agreements with not less than 20 and not more than 30 State, local, or Tribal governments to establish pilot programs under which the Secretary shall provide technical assistance to such governments in regulating the operation of small and civil unmanned aircraft systems, including through the use of the latest available technologies for unmanned traffic management, notice, authorization, and situational awareness with respect to reasonable time, manner, and place limitations and restrictions pursuant to section 3.

(b) SELECTION.—In selecting among State, local and Tribal governments for purposes of establishing pilot pro-
grams under subsection (a), the Secretary shall seek to enter into agreements with—

(1) governments that vary their size and intended approach to regulation of small and civil unmanned aircraft systems;

(2) governments that demonstrate a willingness to partner with technology providers and small and civil unmanned aircraft operators; and

(3) at least two of each of the following: State governments, county governments, city governments, and Tribal Governments.

(c) UNMANNED AIRCRAFT SYSTEMS TRAFFIC MANAGEMENT SYSTEM.—The Secretary shall coordinate with the Administrator of the National Aeronautics and Space Administration to ensure that participants in pilot programs established under subsection (a) are consulted in the development of the unmanned aircraft systems traffic management system under section 2208 of the FAA Extension, Safety, and Security Act of 2016 (Public Law 114–190, 49 U.S.C. 40101 note) and the pilot program under section (b) of such section.

(d) REPORT REQUIRED.—Not later than 18 months after establishment of the pilot programs required by subsection (a), the Secretary shall coordinate with pilot program participants to submit to Congress, and make avail-
able to the public, a report identifying best practices for State, local, and Tribal governments to regulate the operation of small and civil unmanned aircraft systems and to collaborate with the Federal Aviation Administration with respect to the regulation of such systems.

SEC. 5. PRESERVATION.

(a) RIGHTS TO PRIVACY.—In prescribing regulations or standards related to civil or small unmanned aircraft systems, the Secretary shall not authorize the operation of a small or civil unmanned aircraft in airspace local in nature above property where there is a reasonable expectation of privacy without permission of the property owner.

(b) CAUSES OF ACTION, CLAIMS, AND REMEDIES.—

(1) IN GENERAL.—Nothing in this section shall be construed to preempt, displace, or supplant any Federal, State, or Tribal common law rights or any Federal, State, or Tribal statute or common law right creating a remedy for civil relief, including those for civil damages, or a penalty for a criminal law.

(2) CAUSE OF ACTIONS UPHeld.—Nothing in this section shall preempt or preclude any cause of action for personal injury, wrongful death, property damage, inverse condemnation, trespass, nuisance or other injury based on negligence, strict liability,
products liability, failure to warn, or any other legal
target of liability under any maritime law, or any
Federal, State, or Tribal common law or statutory
target, except that no cause of action, claim or rem-
edy may be made solely because of the transit of an
unmanned aircraft through airspace local in nature
over private property in the absence of proof that
such transit substantially interfered with the owner
or lessee’s use or enjoyment of the property or re-
peatedly transited the airspace local in nature above
the owner’s property.

(c) PRIVATE AIRSPACE.—Notwithstanding any other
provision of law, the Secretary shall not issue any rule or
regulation that impedes or operates contrary to the au-
thority of a State, local, or Tribal government to define
private property rights as it applies to unmanned aircraft
in the airspace above property that is local in nature.

(d) RIGHTS TO OPERATE.—A State or local govern-
ment may not unreasonably or substantially impede the
ability of a civil unmanned aircraft, from reaching the navigable airspace. Unreasonable or substantial impeding of
a civil unmanned aircraft from reaching the navigable air-
space includes—
(1) outright bans on overflights of the entirety of the lateral boundaries of a State or local government’s jurisdiction;

(2) excessively large prohibitions on overflights of areas of local significance such that access to airspace is so impeded as to make flight within the lateral boundaries of a State or local government’s jurisdiction nearly impossible; and

(3) a combination of restrictions intended to unreasonably impede or having the practical effect of unreasonably impeding the ability of a civil unmanned aircraft from reaching the navigable airspace.

(e) RIGHT-OF-WAY.—Nothing in this section shall be construed to prevent an operator or pilot from operating a small or civil unmanned aircraft over their own property, right of way, easement, lands, or waters.

SEC. 6. STATUTORY CONSTRUCTION.

(a) JUDICIAL REVIEW.—An action taken by the Secretary of Transportation under any of sections 4XXXW–4XXXXY is subject to judicial review as provided under section 46110 of title 49, United States Code.

(b) CIVIL AND CRIMINAL JURISDICTION.—Nothing in this Act (including the amendments made by this Act)
may be construed to diminish or expand the civil or crimi-
nal jurisdiction of—

(1) any Tribal Government relative to any State
or local government; or

(2) any State or local government relative to
any Tribal Government.

(c) LIMITATION.—Nothing in this Act (including the
amendments made by this Act) may be construed to—

(1) affect manned aircraft operations or the au-
thority of the Federal Aviation Authority (in this
section referred to as “FAA”) with respect to
manned aviation;

(2) affect the right of the FAA to take emer-
gency action, including the right to issue temporary
flight restrictions;

(3) affect the right of the FAA to pursue en-
forcement action against unsafe unmanned aircraft
operators; and

(4) affect the right of first responders to access
airspace in the event of an emergency.