



February 23, 2024

Senator John Schickel
702 Capital Ave
Annex Room 283
Frankfort, KY 50601

RE: OPPOSITION OF SB 16

Senator Schickel,

The undersigned drone organizations write today to express our opposition to the provisions in SB 16. As organizations that represent uncrewed aerial systems (UAS) operators in Kentucky, we are concerned that the provisions on operation in section (c)1 run afoul of federal authority and may have a negative impact on the commercial air mobility industry in the State.

The Association for Uncrewed Vehicle Systems International (AUVSI), Commercial Drone Alliance, Consumer Technology Association, and Small UAV Coalition represent a diverse membership group, including UAS operators, public safety experts, UAS manufacturers, software companies, and more. We work as a unified group to advance smart public policy that will help to scale UAS in a meaningful way.

As written, SB 16 prohibits the flight on or above certain key infrastructure facilities. Landowners have a robust right to the surface of their property, and there are important safety and security concerns when it comes to protecting critical infrastructure. The prohibition on simple overflight, however, goes beyond what is necessary and within the right of the State to regulate. The concept of aerial trespass is directly tied to “substantial interference” with the property, which sole operation of a UAS above the infrastructure does not necessitate. As such, characterizing that operation as an offense of trespass is inaccurate.

Additionally, the regulation of UAS in the airspace that is contained in section (c)1 is preempted by federal law. As Title 49, Part A, Section 1 of the U.S. Code, states: “The United States Government has exclusive sovereignty of airspace of the United States.” This federal control of the airspace—delegated in practice by Congress to the Federal Aviation Administration (FAA)—is a bedrock principle of aviation law that dates back well over 50 years and is one of the reasons that the United States maintains an aviation safety record that is the envy of the rest of the world. Proposals such as SB 16 have the potential to create a complicated patchwork of laws that may erode, rather than enhance, safety.

We understand the need to protect key infrastructure assets but feel that this is effectively done through Section (c)2, which prohibits the recording or distribution of certain key infrastructure assets. As the intent of the measure is to prevent the distribution of photos and videos that could

harm agricultural operations, the planned outcome can be achieved without the restriction on flight above these properties. The restriction on flight above, however, could have unintended consequences that would restrict where operators can fly, cause confusion and risk in the airspace, and create issues of federal preemption.

For the reasons above, we oppose SB 16 as currently written. UAS are poised to provide immense public benefit to wherever they are deployed. By leaving airspace regulation to the FAA and ensuring a lack of regulatory hurdles, Kentucky will allow themselves to see the significant workforce, economic, and environmental benefits that the drone industry can provide.

We appreciate your consideration of our views and are happy to work with your staff on revisions to this bill, as well as to address any questions you may have about our observations.

Respectfully,

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