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## **New FAA Drone Rules Reject Federal Preemption of State and Local Drone Laws**

The Federal Aviation Administration (FAA) yesterday announced its long awaited final rules for small unmanned aircraft systems (UAS), or drones. These rules represent a significant victory for public safety. In this action the FAA has unequivocally announced its rejection of pre-emption of state and local ordinances in the area of drone regulation. The FAA acknowledged the important role of state and local regulation, stating “certain legal aspects concerning small UAS use may be best addressed at the state or local level.”

“The League applauds the FAA action. The League has maintained that cities have the right, within the bounds of their constitutional police power and land use authority, to reasonably regulate drone flights within their jurisdictions. Yesterday’s FAA announcement vindicates that position,” said League Executive Director Chris McKenzie.

The rules lay to rest a long-running controversy in California between local governments and the drone and tech industries about whether state and local regulations have a place in any regulatory scheme for unmanned aircraft systems. The debate on this issue began to heat up last year in the wake of multiple incidents of recreational drones interfering with first responder aircraft, including a number of near collisions.

In the most dramatic incident in July 2015, drones operating in flight restricted airspace forced the grounding for safety reasons of at least four firefighting aircraft, as a result of which a wildfire jumped Interstate 15, destroying a number of motor vehicles and homes.

Since that time, California legislators have worked to reign in recreational drone activity with state regulations to fill a void resulting from FAA regulations that until recently have not addressed recreational drones at all. Industry players have been quick to oppose legislation by raising the pre-emption argument, despite a December 2015 document from the Office of the FAA’s Chief Counsel identifying a specific role for state and local regulations with respect to UASs..

A number of cities in California, in response to privacy concerns and threats to public safety arising from interference with first responder aircraft and drone flights in proximity to airports in violation of FAA regulations, have moved ahead with their own local regulations. The city of Los Angeles has by far the most comprehensive and restrictive ordinance in the state, crafted with the active participation of the Los Angeles Police Department. The number of airports in the Los Angeles area and airborne paparazzi using drones mounted with cameras to capture images of film and TV celebrities were also factors in the development of the L.A. ordinance. Drone manufacturers in particular are concerned that other jurisdictions may follow L.A.’s lead, triggering what they decry as a “patchwork” of differing regulations across multiple jurisdictions.

The most comprehensive state bill on this subject, SB 868 (Jackson), which expressly protects local ordinances within a state regulatory scheme, stalled for lack of support in the Assembly Privacy and Consumer Protection Committee just one day before the FAA regulations were announced. However, the newly released final rules may provide her legislation with new impetus.