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## OLR Bill Analysis

### sHB 5202

#### ***AN ACT IMPLEMENTING THE RECOMMENDATIONS OF THE CONNECTICUT AIRPORT AUTHORITY.***

#### **SUMMARY**

This bill defines “unmanned aircraft” (i.e., drones) and “vertiports” and incorporates these concepts into various existing aeronautics statutes. In doing so, the bill generally subjects vertiports to the same regulatory framework as other air navigation facilities (e.g., airports, heliports, and restricted landing areas), including requirements for facility licensure and aircraft registration, among other things. The bill also generally expands the authority of the Connecticut Airport Authority (CAA) executive director to cover unmanned aircraft and allows him to adopt procedures specifying where unmanned aircraft may take off and land and governing their operation, unless already prohibited or regulated by federal law (see BACKGROUND).

The bill applies certain existing statutes on investigations and reporting requirements for aircraft accidents and reckless operation to unmanned aircraft. It also establishes several new unmanned aircraft restrictions, such as prohibiting (1) equipping one with a deadly weapon and (2) operation in close proximity to a private premises or critical infrastructure facility.

Unrelatedly, the bill also (1) prohibits any person from intentionally projecting a laser on or at an aircraft or its flight path and makes violations a class A misdemeanor and (2) modifies the hours during which alcohol sales are allowed at Bradley Airport to daily from 4:00 a.m. until 11:00 p.m.

Lastly, it makes numerous minor, technical, and conforming changes.

EFFECTIVE DATE: July 1, 2024, except that the provisions on

operating unmanned aircraft under the influence, CAA procedures for unmanned aircraft, unmanned aircraft restrictions, lasers, and alcohol sales at Bradley Airport are effective October 1, 2024.

## **VERTIPOINT REGULATION**

Under the bill, vertiports are areas with defined dimensions, at ground-level or elevated on a structure, that are designated for vertical takeoff and landing (VTOL) of aircraft and may be restricted only for this purpose (i.e., similar to existing law’s definition of heliports, which are designed for helicopters rather than VTOL aircraft). (In practice, no vertiports currently exist in the state.)

Under existing law, an “air navigation facility” generally includes airports, heliports, and restricted landing areas. The bill makes a vertiport an air navigation facility (§ 1) and makes various changes to incorporate them into the existing statutory framework for these and similar facilities. It allows the CAA executive director to issue certificates of approval for proposed vertiports and license these facilities in the same way as under existing law for other air navigation facilities (§§ 4-6).

The bill applies numerous other statutory provisions generally applicable to air navigation facilities to vertiports, such as those related to complaints about landings or takeoffs by aircraft from unlicensed property (§ 9), CAA orders (§ 13), and airspace protection and runway clear zones (§§ 17 & 18). The bill also extends other provisions on air navigation facilities to vertiports by doing the following:

1. imposing existing law’s aircraft registration requirements on aircraft based or primarily used at a vertiport in the state (§§ 2 & 3);
2. subjecting vertiport owners or operators to certain annual reporting requirements on information about aircraft based or primarily used at their facility (§ 7);
3. authorizing the CAA executive director to cooperate with the federal government and municipalities in undertaking certain

vertiport-related projects that receive federal aid (§ 8); and

4. making it a class D felony to interfere or tamper with a vertiport or related equipment (punishable by up to five years in prison, a fine of up to \$5,000, or both) (§ 14).

### **UNMANNED AIRCRAFT REGULATION**

Under the bill, an unmanned aircraft (i.e., a drone) is a powered aircraft that (1) uses aerodynamic forces to provide vertical lift, (2) is operated remotely by a pilot in command or is capable of autonomous flight, (3) does not carry a human operator, and (4) can be expendable or recoverable. The bill specifies that unmanned aircraft are not considered aircraft under the aeronautics statutes.

### ***CAA Authority to Regulate (§§ 10 & 20)***

Existing law generally gives CAA's executive director broad authority to develop and promote aeronautics. This includes the authority to, consistent with aeronautics laws, perform acts, issue and amend orders, make and amend regulations and procedures, and establish minimum standards that he determines are needed for protecting the (1) general public interest and safety and (2) safety of (a) people operating, using, or traveling in aircraft (including those receiving instruction) and (b) people and property on land or water. The bill expands this authority to include protecting people operating or using unmanned aircraft.

The bill authorizes CAA to adopt procedures (1) specifying where unmanned aircraft may take off and land, considering public health and safety, aesthetics, and the general welfare, and (2) governing the operation of unmanned aircraft, unless already prohibited or regulated by federal law. It must do so in consultation with the Department of Transportation, representatives from the unmanned aircraft industry, and organizations representing municipalities and first responders.

### ***Accident Investigations (§§ 11 & 12)***

Current law allows the CAA executive director to hold investigations, inquiries, and hearings about matters covered by

aeronautics laws, aircraft accidents, or his orders and regulations. The bill expands this authority to include “unmanned aircraft accidents.”

Under the bill, an “unmanned aircraft accident” is an occurrence associated with unmanned aircraft operation that takes place between when it takes off and lands, in which (1) someone dies or is seriously injured due to direct contact with the unmanned aircraft (or anything attached to it) or its operation or (2) the unmanned aircraft incurs or causes substantial damage. Existing law similarly defines an aircraft accident (i.e., one in which someone dies or is seriously injured due to being in or on the aircraft or direct contact with it, or the aircraft receives substantial damage).

Under current law, “substantial damage” is damage or structural failure that affects the aircraft’s structural strength, performance, or flight characteristics and would normally require major repair or replacement of the affected component. The bill expands this to also include (1) damage or structural failure of this type to an unmanned aircraft and (2) any damage of more than \$1,000 to any person’s property (this aligns with the threshold in the Uniform Aircraft Financial Responsibility Act).

### ***Accident Reporting (§§ 11 & 15)***

Current law generally requires the pilot of a civil aircraft involved in an accident described above (or the operator if the pilot is incapacitated) to immediately notify the CAA executive director or police. The bill applies this requirement to operators of unmanned aircraft involved in an accident (or anyone else that caused or authorized its operation if the operator is incapacitated). Under current law, when an accident occurs that is subject to these provisions, a written report must be filed with the executive director within 14 days. The bill specifies that this is the pilot’s or operator’s responsibility. The bill expands current law’s definition of an operator (i.e., any person who causes or authorizes an aircraft’s operation, such as its owner, lessee, or bailee) to include unmanned aircraft operators.

Additionally, the bill expands to certain unmanned aircraft accidents

current law's written report requirement for aircraft accidents when the damage is not substantial (i.e., accidents not subject to the mandatory reporting requirement discussed above). As under existing law, (1) these reports are required at the executive director's request and (2) he may investigate the accidents if he deems it advisable, or instead accept a copy of the final report by a federal investigation agency.

***Reckless Operation and Operating Under the Influence (§§ 16 & 19)***

The bill extends current law's prohibitions on doing the following to include unmanned aircraft:

1. operating any aircraft carelessly, recklessly, or in a way that endangers people or property, having regard to the proximity of weather and field conditions, territory flown over, and other aircraft (or unmanned aircraft under the bill); and
2. operating, or attempting to, any aircraft on the ground or in the air while under the influence of alcohol or drugs.

Violators are (1) subject to a fine of up to \$250 for a first offense and (2) guilty of a class D misdemeanor for a subsequent offense (punishable by a fine of up to \$250, up to 30 days in prison, or both) (CGS § 15-97).

**ADDITIONAL UNMANNED AIRCRAFT RESTRICTIONS**

The bill also establishes several new restrictions on operating unmanned aircraft (and any aircraft in the case of the deadly weapons provision below).

***Deadly Weapons (§§ 21 & 22)***

The bill prohibits any person from equipping an aircraft or unmanned aircraft with a deadly weapon, dangerous instrument, firearm, ammunition, explosive, or incendiary device. However, it exempts those operated by a (1) U.S. or state armed forces member performing official duties or (2) police officer during rescue services or while providing emergency services to people in dangerous situations, when the aircraft or unmanned aircraft is equipped with a motorized breaching tool.

The bill makes a violation of this provision a class A misdemeanor, which is punishable by up to 364 days in prison, a fine of up to \$2,000, or both.

***Private Premises and Critical Infrastructure Facilities (§§ 21, 23 & 24)***

The bill prohibits any person from operating, or programming to operate, an unmanned aircraft at a height of less than 250 feet over (1) the boundaries of a private premises without the owner’s prior approval or (2) a “critical infrastructure facility” (or within 200 feet of one) (see below).

Additionally, it prohibits using an unmanned aircraft to surveil, gather evidence, or collect information related to a critical infrastructure facility without prior approval from the facility’s owner or administrator.

It exempts the following individuals while performing their official duties: (1) employees of the federal government, the state, or its political subdivisions; (2) public service company employees (e.g., electric distribution, gas, and telephone companies); (3) members of the U.S. or state armed forces; and (4) firefighters and police officers. This exemption also covers operating unmanned aircraft on behalf of these entities. The bill also exempts people operating unmanned aircraft for commercial purposes in compliance with Federal Aviation Administration authorization (if doing so is necessary for these purposes).

The bill makes a violation of the (1) private premises provision an infraction (see BACKGROUND) and (2) critical infrastructure facility provisions a class A misdemeanor, which is punishable by up to 364 days in prison, a fine of up to \$2,000, or both.

***Critical Infrastructure Facility Defined.*** Under the bill, a critical infrastructure facility is any of the following:

1. an electrical generating facility, electric substation or switchyard, or electric control system;

2. a facility for storing, receiving, or processing petroleum products and other fuels;
3. a chemical or rubber manufacturing or storage facility;
4. a correctional facility;
5. a telecommunications central office or wireless telecommunications infrastructure;
6. a commercial port, harbor, rail yard, truck terminal or other freight transportation facility;
7. a gas manufacturing or distribution plant;
8. a television or radio station transmission facility licensed by the Federal Communications Commission;
9. an above-ground oil, gas, or chemical pipeline;
10. a dam classified as a high or significant hazard by the energy and environmental protection commissioner;
11. an air navigation facility;
12. a military facility;
13. a reservoir, water treatment plant, distribution system and pumping station or wastewater treatment plant, collection system and pump station;
14. a government office building;
15. a hospital; or
16. a public safety facility, as long as the property is enclosed by a fence or another physical barrier or clearly marked with a sign indicating that entry is forbidden.

**PROHIBITION OF PROJECTING A LASER AT AN AIRCRAFT (§ 25)**

The bill generally prohibits any person from intentionally projecting

a laser on or at an aircraft or its flight path. It makes violations a class A misdemeanor (punishable by up to 364 days in prison, a fine of up to \$2,000, or both). The bill exempts U.S. or state armed forces members and police officers performing their official duties.

Under the bill, a laser is any device that (1) projects a beam or point of light by certain means or (2) emits light simulating the appearance of a laser.

### **ALCOHOL SALES AT BRADLEY AIRPORT (§ 26)**

The bill modifies the hours during which alcohol sales are allowed at Bradley Airport in premises operating under a cafe permit to every day after 4:00 a.m. and until 11:00 p.m. Current law generally allows sales beginning after 6:00 a.m. and until (1) 1:00 a.m. on Monday through Friday and (2) 2:00 a.m. on the weekend (with certain holiday exceptions).

### **BACKGROUND**

#### ***Federal Guidance on State Regulation of Unmanned Aircraft***

In 2023, the Federal Aviation Administration (FAA) released an updated fact sheet to provide further guidance to states on the scope of federal authority over unmanned aircraft and more clearly delineate the aspects of their use that states may regulate and those which may be preempted (Updated Fact Sheet on State and Local Regulation of Unmanned Aircraft Systems, dated July 14, 2023).

According to the fact sheet, states may not regulate in the fields of aviation safety or airspace efficiency and laws attempting to do so are preempted. However, states generally may regulate unmanned aircraft outside those fields, with certain exceptions (e.g., laws that conflict with FAA regulations or impair reasonable use of the airspace).

The fact sheet identifies several categories of state laws that would likely not be subject to preemption, including laws (1) on land use and zoning, privacy, harassment, trespassing, exercise of police powers, search and rescue, and taking photographs or videos of certain facilities; (2) regulating the location of takeoff and landing areas; and (3)



restricting unmanned aircraft operation near property, to the extent their operation substantially interferes with the property owner's actual use and enjoyment of the property.

***Infractions***

Infractions are punishable by fines, usually set by Superior Court judges, of between \$35 and \$90, plus a \$20 or \$35 surcharge and an additional fee based on the fine's amount. There may also be other applicable charges depending on the type of infraction. For example, certain motor vehicle infractions trigger a Special Transportation Fund surcharge of 50% of the fine. An infraction is not a crime and violators can generally pay the fine by mail without making a court appearance.

***Related Bill***

sSB 3 (§ 4), reported favorably by the General Law Committee, generally prohibits a public entity from (1) purchasing a drone assembled or manufactured by a covered entity (e.g., China or Russia) beginning October 1, 2024, and (2) operating these drones beginning October 1, 2025.

**COMMITTEE ACTION**

Transportation Committee

Joint Favorable Substitute

Yea 34 Nay 1 (03/20/2024)