

## **FAA Reauthorization Bill Establishes New Conditions for Recreational Use of Drones**

On October 5, 2018, the President signed the **FAA Reauthorization Act of 2018** (<https://www.congress.gov/115/bills/hr302/BILLS-115hr302enr.pdf>). The Act establishes new conditions for recreational use of drones and immediately repeals *Section 336: The Special Rule for Model Aircraft*. These FAA conditions do not apply if you are flying drones indoors.

As you read through the summary below, you will find that the new conditions are similar to prior requirements. There is a new section that addresses the use of small unmanned aircraft by **institutions of higher education** but doesn't specifically cover K-12 schools. Until the FAA updates its memo defining K-12 students/programs as being considered "recreational use" (*Educational Use of Unmanned Aircraft*) [https://www.faa.gov/uas/resources/uas\\_regulations\\_policy/media/interpretation-educational-use-of-uas.pdf](https://www.faa.gov/uas/resources/uas_regulations_policy/media/interpretation-educational-use-of-uas.pdf), students should "continue to follow all current policies and guidance with respect to recreational use of drones. (from the FAA website)"

Also, the biggest addition to the new regulation is that ***all hobbyists will eventually have to pass and carry proof of passing an aeronautical knowledge and safety test. IT WILL TAKE THE FAA 6 MONTHS OR MORE BEFORE THE TEST IS IMPLEMENTED.***

**FEAR NOT!** Once the "hobbyist test" is created and made available by the FAA, [DroneCurriculum.net](https://www.dronecurriculum.net) **WILL PROVIDE TEST PREPARATION LINKS AND MATERIALS FREE OF CHARGE TO ALL CLIENTS.** We want all students to be able to study and fly drones as defined by the new regulations. We also offer curriculum to prepare for the ***Part 107 Remote Pilot Certification*** if schools wish to go that route. This will allow anyone with the certification to receive compensation for flying a drone and will supersede the need to take the simpler "hobbyist test."

(From the FAA website - <https://www.faa.gov/uas/>)

"The agency is evaluating the impacts of this change in the law and how implementation will proceed. The Reauthorization Act cannot be fully implemented immediately, please continue to follow all current policies and guidance with respect to recreational use of drones."

The 2018 FAA Reauthorization Act maintains a distinction between recreational and commercial activities, but the FAA is no longer constrained by law not to impose rules on the former – *Section 336*, which had previously carved out an exception for model aircraft, has been entirely repealed. In its place is a new *Section 349*, which covers what the FAA expects of recreational flyers.

The FAA is allowing the operation of certain unmanned aircraft without "certification" or "operating authority." There are eight qualifications that must be met for that:

1. "The aircraft is flown strictly for recreational purposes."
2. "The aircraft is operated in accordance with or within the programming of a community-based organization's set of safety guidelines that are developed in coordination with the Federal Aviation Administration."
3. "The aircraft is flown within the visual line-of-sight of the person operating the aircraft or a visual observer co-located and in direct communication with the operator."

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4. “The aircraft is operated in a manner that does not interfere with and gives way to any manned aircraft.”
5. “[In airspace surrounding airports] the operator obtains prior authorization from the Administrator or designee before operating and complies with all airspace restrictions and prohibitions.”
6. “[In other airspace] the aircraft is flown from the surface to not more than 400 feet above ground level and complies with all airspace restrictions and prohibitions.”
7. ***“The operator has passed an aeronautical knowledge and safety test described in subsection (g) and maintains proof of test passage to be made available to the Administrator or law enforcement upon request.”*** (NOTE: It’ll take the FAA some time to put the test in place. As stated on their website, until implemented, “please continue to follow all current policies and guidance with respect to recreational use of drones.”
8. “The aircraft is registered and marked in accordance with chapter 441 of this title and proof of registration is made available to the Administrator or a designee of the Administrator or law enforcement upon request.”

Up to this point, hobbyists have been treated as an entirely separate group of drone pilots from those flying commercially. But it looks like that will no longer be the case, and all drones will now be viewed similarly by the FAA, at least from a regulatory perspective.

In addition to now being subject to regulations about not flying near airports or above 400 feet — restrictions commercial pilots have under the FAA’s Part 107 rules — the Act also allows the FAA to require hobbyist drone pilots to pass a knowledge test before flying. (Commercial pilots must pass the Part 107 test and receive a Part 107 certificate to fly.)

**But here’s an inconsistency:** Directly from the FAA’s website, they summarize the following as a list of everything that is a new condition for hobbyist drone pilots based on the 2018 Re-Authorization Act:

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<https://www.faa.gov/news/updates/?newsId=91844>

- Fly for hobby or recreation only
- Register your model aircraft
- Fly within visual line-of-sight
- Follow community-based safety guidelines and fly within the programming of a nationwide community-based organization
- Fly a drone under 55 lbs. unless certified by a community-based organization
- Never fly near other aircraft
- Never fly near emergency response efforts

Updated direction and guidance will be provided as the FAA implements this new legislation.

One interesting thing about this list is that a new knowledge test is not mentioned. It could be that the FAA is exploring alternate certification options for hobbyist pilots, such as joining or abiding by the requirements of an approved community organization, which could oversee hobbyist certification and bypass the need for the FAA to create and administer a brand-new knowledge test for hobbyists.

Another thing to notice is the condition regarding registering model aircraft. Up to this point hobbyists only had to register themselves as pilots (one registration number for all aircraft). Now, it requires each drone to be registered, as commercial pilots must do, and allows for the implementation of remote ID tracking and the possibility of creating a system for tracking who’s flying exactly what where.

Amid all this uncertainty, only one thing does seem likely — none of these changes are going to happen overnight.