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March 12, 2015

Montana State Legislature  
House Judiciary Committee  
P.O. Box 200400  
Helena, MT 59620-0400

*sent via email to:*  
[McKenzieChambers@mt.gov](mailto:McKenzieChambers@mt.gov)

**RE: HB 586, Unmanned Aerial Vehicles – NAMIC’s Written Testimony**

Dear Representative Bennett, Chair; Representative Doane, Vice-Chair; Representative Court, Vice-Chair; and honorable members of the House Judiciary Committee:

Thank you for affording the National Association of Mutual Insurance Companies (NAMIC) an opportunity to submit written testimony to the House Business and Labor Committee for the March 12, 2015, public hearing.

NAMIC is the largest property/casualty insurance trade association in the country, serving regional and local mutual insurance companies on main streets across America as well as many of the country’s largest national insurers.

The 1,400 NAMIC member companies serve more than 135 million auto, home and business policyholders and write more than \$196 billion in annual premiums, accounting for 50 percent of the automobile/homeowners market and 31 percent of the business insurance market. NAMIC has 134 members who write property/casualty insurance in the State of Montana, which represents 40% of the insurance marketplace.

Through our advocacy programs we promote public policy solutions that benefit NAMIC companies and the consumers we serve. Our educational programs enable us to become better leaders in our companies and the insurance industry for the benefit of our policyholders.

NAMIC appreciates and supports the legislature’s desire to regulate the use of unmanned aerial vehicles (drones) to promote public safety. As is commonly the case, technological marvels, like drones, are developed before the full scope of the public policy debate on how best to regulate their public and commercial use is fully vetted. Since the regulation of the use of drones is currently being addressed at the federal government level, NAMIC believes that state legislatures should allow the Federal Aviation Administration (FAA) to finish their comprehensive evaluation of the issue and finalize their regulations on acceptable use of drones for public and commercial endeavors before state legislatures undertake their own regulatory activities.

National uniformity on fundamental regulatory principles on the appropriate use of drones will facilitate safe commercial use of this innovative technology in a way that minimizes potential risk to the public. Moreover, since FAA rules will preempt state law in a number of important regulatory areas, any attempt to pass statewide drone legislation may be in vain at this point. Section 8 of the proposed legislation even contemplates the fact that HB 586 terminates when the FAA “promulgates” rules at the federal level regarding drones, which is likely to occur within the next 12-18 months; thereby, making this legislation a mere temporary measure that could establish a regulatory framework that ends up being inconsistent with federal law and detrimental to those commercial endeavors that implement a business practice in reliance upon and consistent with the regulatory mandates of the proposed legislation.

NAMIC also has concerns with several provisions in HB 586:

**\* Section 3, Unauthorized use of unmanned aerial vehicle near emergency operations.**

NAMIC appreciates the importance of maintaining an emergency operations zone free of excessive drone use that may hinder public safety operations and/or pose additional hazards to first responders. However, NAMIC believes that certain commercial drone use in catastrophe areas is reasonable, appropriate, and necessary to address the needs of citizens impacted by a catastrophe.

NAMIC is concerned that this provision in the proposed legislation is somewhat unclear and could result in the unnecessary restriction of safe commercial drone use that could be helpful to the emergency operations and beneficial to insurance policyholders. The definition of “an emergency operation” needs to be clarified, because it could be read to encompass catastrophe scenes where insurance professionals actively assist their policyholders in evaluating the scope of their insurable loss. The use of commercial drones by insurers in these catastrophe scenes to inspect the extent of damage to access roads and building structures may be of great value to the emergency operations and is an appropriate use of drone technology to reduce human exposure to potentially dangerous hazards that frequently exist after a catastrophic event.

Although the proposed legislation does allow the incident commander to authorize certain drones to be used in such emergency operations, NAMIC is concerned that this provision in the bill does not clearly indicate what types of industries may secure authorization from an incident commander and specifically how and when that authorization may be procured. NAMIC recommends that this section specifically exempt the insurance industry from the proposed restrictions and allow for the use of drones in catastrophe scene environments so that insurers may promptly begin to assist their policyholders in addressing their post-catastrophe insurance needs. Expediting the recovery process for those adversely impacted by a catastrophe is an important public policy consideration that should be considered when drafting regulations on the use of commercial drones.

**\* Section 4, Unauthorized use of unmanned aerial vehicle near aerial spraying operation.**

NAMIC appreciates the importance of making sure that commercial drones do not pose a hazard to small planes and helicopters being used in agricultural aerial spraying operations, but NAMIC

is concerned that the “within 3 nautical miles” prohibition may be overly and unnecessarily restrictive, since the flight patterns of aerial spraying operations are reasonably confined to the agricultural area being serviced. If aerial spraying operations are exceeding the boundaries of the agricultural area by 1 or more nautical miles, such a practice poses its own public safety concern that may need to be addressed by regulation. NAMIC believes that protecting aerial spraying operations from commercial drone use may be accomplished in a way that does not unnecessarily hinder insurers in their ability to use drones to address insurance consumer needs in neighborhoods near agricultural areas. NAMIC respectfully suggests that this section of the bill be revised so that commercial agricultural interests and other commercial interests are harmonized to address the legitimate needs of all parties.

**\* Section 5, Emergency proclamation to ground unmanned aerial vehicles.**

NAMIC is concerned that this section of the proposed legislation is overly-broad and in need of greater clarification. Specifically, what does “temporarily prohibit” mean in this context? How long does a temporary prohibition last? What public safety standards are to be used by the incident commander in determining when to issue and terminate a temporary prohibition on the use of commercial drones?

For the aforementioned reasons, NAMIC believes that the legislature should postpone passing HB 586 until the final FAA rules on drone use are adopted, so that Montana’s law on drone use is consistent with federal law. In the alternative, if the legislature believes that it cannot wait for federal regulation to be adopted, NAMIC respectfully requests that the proposed legislation be amended to address the reasonable needs of insurance consumers who benefit from safe commercial drone use.

Thank you for your time and consideration. Please feel free to contact me at 303.907.0587 or at [crataj@namic.org](mailto:crataj@namic.org), if you would like to discuss NAMIC’s written testimony.

Respectfully,



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