

Date of Hearing: March 29, 2023

ASSEMBLY COMMITTEE ON AGRICULTURE
Robert Rivas, Chair
AB 1016 (Jones-Sawyer) – As Amended March 9, 2023

SUBJECT: Pest control operations: aircraft operations: private applicator

SUMMARY: This bill would add the status of private applicator as a designation under the unmanned pest control aircraft (UPCA) pilot's certificate, as specified. Specifically, *this bill*:

- 1) Adds private applicator classification to UPCA certificate for the purpose of using a UPCA for application of pesticides.
- 2) Requires a person with a private applicator UPCA certificate to only apply pesticides on agricultural commodities on property controlled by the pilot or the pilot's employer.
- 3) Requires a person with a private applicator UPCA certificate to submit, to Department of Pesticide Regulation (DPR), proof of completion of a program accredited by DPR and possession of a valid private applicator certificate.
- 4) Adds requirement that in order to have a journeyman's UPCA certificate, the applicant has to serve as an apprentice UPCA for one year.
- 5) Allows DPR to adopt regulations related to journeyman's UPCA certification.

EXISTING LAW:

- 1) Allows DPR to adopt regulations related to journeyman's UPCA pilot's certification.
- 2) Requires any person to operate an aircraft in pest control to, among other things, holds a valid manned or UPCA pilot's certificate issued by DPR.
- 3) Requires each UPCA pilot's certificate to designate the pilot's status as a journeyman, apprentice, or vector control technician, and requires an applicant for a manned or UPCA pilot's certificate to pass an examination as a condition of licensure.
- 4) Prohibits the issuance of a journeyman's certificate until the applicant has served as an apprentice under an apprentice certificate for one year and until the applicant presents to DPR certain documentary proof that the applicant operated an aircraft in pest control activities for a specified amount of time within the previous 2 years, as specified.

California Code of Regulations defines a private applicator as:

- a) "Individual" can be the operator of the property, the operator's authorized representative (with written authorization), or the operator's employee who uses or supervises the use of a pesticide for the purpose of producing an agricultural commodity as defined by Title 40 on property owned, leased, or rented by him/her or his/her employer; or Code of Federal Regulations, section 171.2(a)(5), or,

- 2) A householder who uses or supervises the use of a pesticide outside the confines of a residential dwelling for the purpose of controlling ornamental, plant, or turf pests on residential property owned, leased, or rented by that householder.

FISCAL EFFECT: Unknown

COMMENTS: AB 527 (Caballero), Chapter 404, statutes of 2017, allowed commercial drone operations for the purpose of pesticide application for mosquito and vector control, if the drone operator complies with FAA rules governing drone flight and the drone operator has approval from DPR. AB 527 created a new PCAP certificate for drone operators, to be provided upon operators passing the exam, as specified.

Current requirements for drone pilots include a training process that requires an apprentice pilot to train under a journeyman pilot for 150 hours for fixed wing aircraft and 50 hours for non-fixed wing aircraft.

According to the author, this creates regulatory misalignment for FAA-licensed drone operators that want to offer aerial pesticide applications in California. Because the pesticide application delivery platform is entirely different, fixed-winged pilots typically do not have the requisite knowledge about how drones are piloted. Therefore, there are approximately 12 licensed drone aerial applicators in California, while there are hundreds of licensed fixed-wing applicators.

Farms only use drones to capture crop canopy, soil health, water usage, and other farm data. However, without access to licensed drone applicators, farmers cannot use drones for pesticide applications.

A February 2022 presentation by the United States Environmental Protection Agency (US-EPA) stated US-EPA does not currently have established data testing/information needs for UAVs. US-EPA is working with several stakeholders/working groups - both US and international - to help inform any potential data needs and how it compares to existing application technology in areas such as: off-site drift, worker exposure and exposure to other non-target organism and crop residues.

Since 2017, the State of Oregon Aerial Applicator licensing rules have allowed for a wider array of training than California. California requires flight training that consist of 150 hours for fixed wing aircraft or 50 hours for non-fixed wing aircraft under a journeyman aerial pest applicator. In California, drone operators fall under the same rules. Oregon provides for the option to have training under the supervision of a certified Aerial Pesticide Applicator; on flights conducted for the purpose of carrying out, or training to carry out, spraying or otherwise applying pesticides by aircraft.

Supporters state instead of spraying an entire field with pesticides, drones permit for the spot treatment of just affected crops. For all pesticide applicators, drones remove workers from intimate contact with pesticides, replacing backpack blowers and ground based delivery systems with remote delivery systems. The technology helps farmers to become more efficient, and [this bill] helps to ensure that the technology's use on farms for pesticide applications comes with regulatory controls in place to ensure worker and community safety. Today, drones are used on farms for important data gathering related to water, soil, and crop health. These drone pilots complete their requisite FAA licensing and fly under the FAA's requirements for drone flights. This bill takes the next logical step in the adoption of drone technology on California's farms,

enabling more efficient applications of pesticides on California's soils.

This bill aims to modernize aerial applicator credentialing requirements in existing statutes by expanding DPR's authority to create training programs for drone aerial applicator licensing independent of existing journeymen/ apprenticeship requirements.

Related legislation:

AB 1689 (Fong) of 2022 would have updated the licensing process for operators of Unmanned Aircraft Systems (drones) for pest control purposes, including agriculture pest control. Held in Assembly-never presented by Fong.

AB 527 (Caballero) Chapter 404, Statutes of 2017, allowed commercial drone operations for the purposes of pesticide application for mosquito and vector control, provided that the drone operator complied with Federal Aviation Administration (FAA) rules governing drone flight and the drone operator had approval from DPR. This bill created a new pest control aircraft pilot certificate for drone operators, to be provided upon operators passing the exam.

REGISTERED SUPPORT / OPPOSITION:

Support

California Farm Bureau Federation

Opposition

None on file

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