



**SMALL UAV
COALITION**
*A Partnership for
Safety & Innovation*



March 14, 2025

Honorable David Gowan
Chairman, Military Affairs and Border Security Committee
Arizona Senate

Honorable Janae Shamp
Vice-Chairman, Military Affairs and Border Security Committee
Arizona Senate

Re: Arizona HR 2733 & 2277

Dear Chairman Gowan and Vice-Chairman Shamp:

The undersigned organizations write to express a concern with two bills that would provide immunity from civil liability to a person who disables, shoots, or destroys a drone. We understand your Committee will hold a hearing on March 17 on HR 2733, which would provide immunity from civil liability for disabling or destroying a drone within 15 miles of the border, if there was a reasonable suspicion that the drone was used to facilitate a crime, and which passed the House on March 3. HR 2277 would provide immunity from civil liability for

disabling or destroying a drone within 15 miles of the border, unless the person intended to cause injury or was grossly negligent.

Because HR 2733, unlike HR 2277, provides immunity only if the person had a reasonable suspicion that the drone was used in furtherance of a crime, we understand the State's interest in protecting its public officials in the performance of their job. HR 2277 is likely preempted by federal law as it would subject lawful operation of drones in the national airspace to destruction or damage simply because of the drone's proximity to the border. Section 40103 of Title 49, United States Code, provides that a citizen of the United States has a public right of transit through the navigable airspace. 14 C.F.R. Part 107 authorizes commercial operations of drones in the navigable airspace and 49 U.S.C. 44807 allows for commercial package delivery and the operations of drones over 55 lbs. in the navigable airspace with federal government authorization.

Both bills, however, are objectionable as they purport to immunize from civil liability conduct that is explicitly prohibited by federal law. Section 32 of Title 18 of the United States Code provides that the willful and intentional destruction of or damage to an aircraft is a felony subject to a penalty of up to 20 years in prison. Under the Supremacy Clause of the Constitution of the United States, Article XI, clause 2, a state law cannot provide immunity from liability for committing a federal offense, because a state law may not restrict the discretion of the United States Department of Justice to enforce violations of federal law. We appreciate that these bills would provide immunity only from civil liability. Nonetheless, without clarifying language in the bills that immunity does not extend to liability under federal law, they would give a false sense of security to a public official who may want to shoot down a drone that there would be no legal consequences for doing so, when the official may face federal prosecution and a sentence of imprisonment. Such official may also not be able to claim qualified immunity as a defense in court, given that 18 U.S.C. 32 is clearly established law.

Thank you for your consideration. We are available to work with you to revise these bills to address the concerns expressed above.

Respectfully submitted,



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