

# Emerging Risks of Today



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# Speakers

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# Marijuana



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# Banking/Funding

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- The [2016 Marijuana Business Factbook](#) predicts the cannabis industry will grow from a \$14-\$16 billion market in 2016 to a [\\$44 billion market by 2020](#), which is an increase of about 300% in just four years.
- Limited institutions willing to fund the businesses
  - Encourage alternative payment methods – cash heavy industry
- Criminal money laundering

# Product Liability Concerns

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- Manufacturing/Design Defect claims
  - Products used to smoke the product most at risk
- Failure to Warn
  - Faulty Labeling
  - Edibles most at risk
  - First time users likely claimants
- Strict Liability
  - All parties in the chain of distribution

# Insurance Policies

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- GL
  - Crop, Harvested Product (drying)
  - Structures (own v. rent)
  - Premises
  - Federal Raid Insurance
- Products Liability
  - Exclude pesticides
- Transportation
  - Moving valuables
  - Cargo

# Ancillary Services

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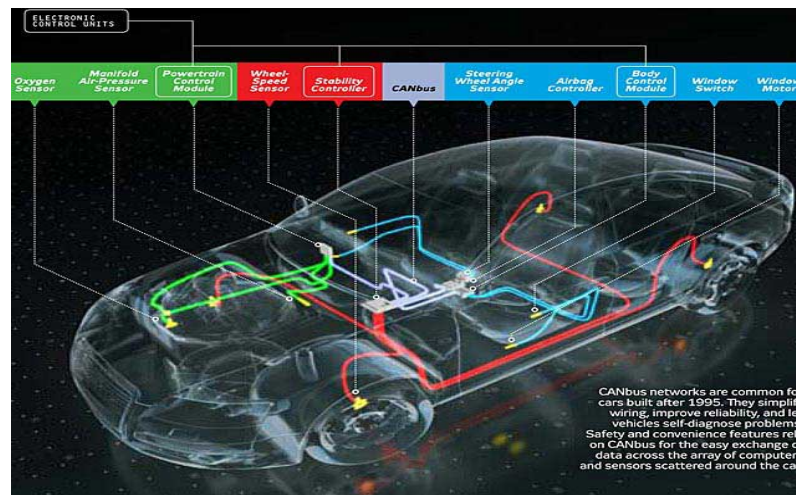
- Cannabis Product Companies
- Testing Facilities
- Lighting Companies
- Greenhouse Companies
- Delivery Services
- Related Professionals
  - Doctors
  - Lawyers
  - Exclusions for failure to maintain malpractice insurance



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# Smart Cars



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# Protection of Technology

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- Can smart cars be hacked?
- How do we protect technology from falling into the wrong hands?



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# Convenience vs. Risks

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- Technology as a micromanager
- Child car safety
- Rear-facing cameras
- Keyless Ignitions
- Federal Motor Vehicle Safety Standard 114



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# Drones



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# Drones



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## Spending

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Reports estimate that  
**WORLDWIDE** spending on drones  
is expected to reach \$93 billion  
by 2025

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## Exposures – Operation of Aircraft

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- Lost Link
- Fly-away
- Depleted battery
- Pilot Skill
- Human Factors
- Maintenance
- Nature



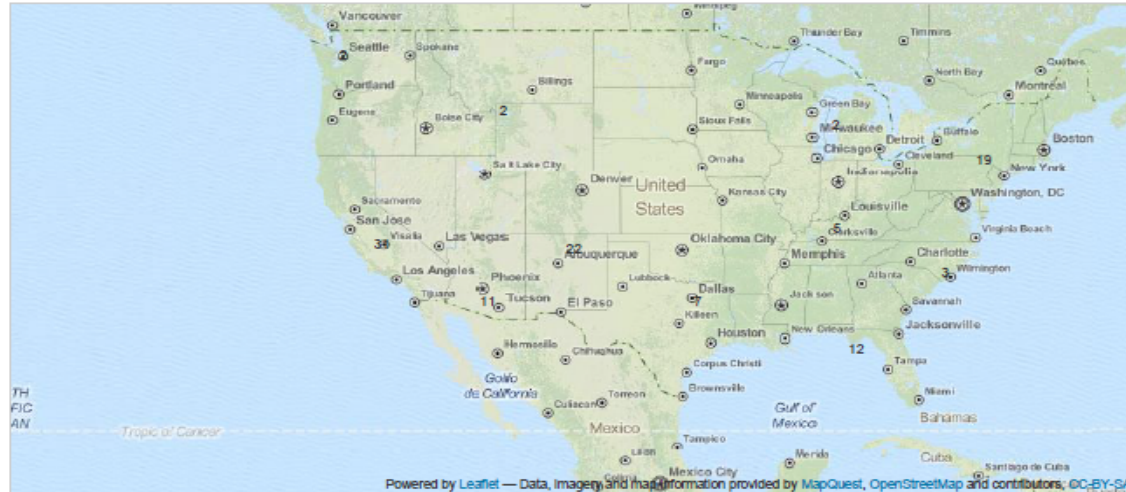
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# Domestic Drone Accident Database

## Domestic drone accidents

The use of unmanned aerial vehicles (also known as UAVs or drones) has been growing dramatically, but the practice has not been without risks. Several dozen drone crashes have been reported within the United States. The database below contains information on all of the known incidents.



<http://rochester.nydatabases.com/map/domestic-drone-accidents>

# DRONE INJURIES LAWYER BLOG

HOME    COMMERCIAL DRONE NEGLIGENCE    DRONE INJURIES  
DRONE INSURANCE CLAIMS    DRONE LIABILITY    DRONE INJURY LAWSUIT  
DRONE INJURY LAWYER    BLOG

## DRONE PERSONAL INJURY LAWSUIT

The proliferation of drone injury lawsuits is growing in tandem with the proliferation of drone use in the United States. Every year since **2009**, drone usage has increased at least four fold and there is no indication that drone growth will slow anytime soon. Commercial companies are researching the possibility of using drone delivery services, drone flyover inspections, drone photography, etc. The possibilities of drone uses are infinite. Unfortunately, as is true with all new technology, there will be inevitable kinks to iron out as the technology develops. Drone injuries are no exception. While the idea of grabbing a remote control and flying a drone around your neighborhood seems easy, untrained drone users often commit costly mistakes. They do not account for weather changes, wind gusts and interference from buildings, trees and birds. Sometimes, it is not the users mistake that causes a drone fall. A drone failure could also be due to a drone defect, battery failure or a power shortage in the motor. Regardless of the cause, all these drone mistakes can cause a drone to seriously injure someone on the ground below it. These kind of drone injuries lead to **drone injury lawsuits**.

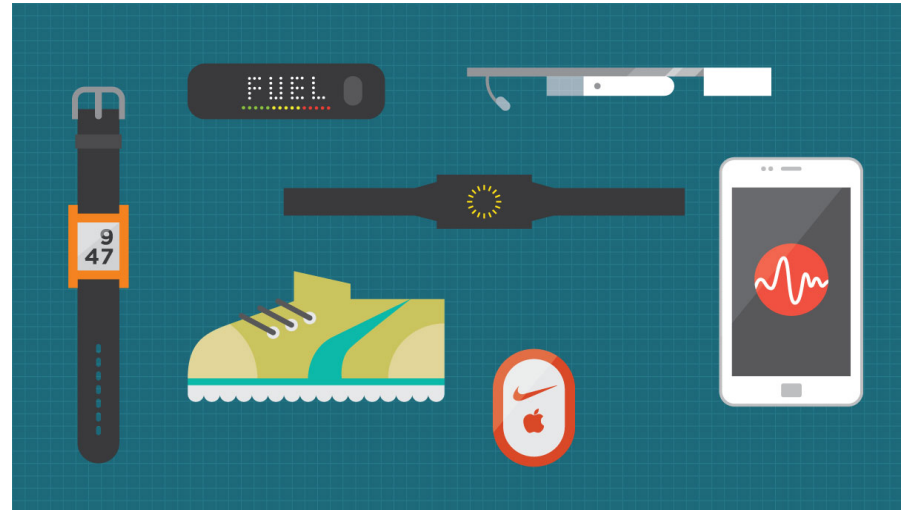


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# Wearables



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# Internet of Things

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- Devices embedded with electronics, software, sensors, network connectivity that allows the item to collect/exchange data
- Fitbits, trackers, fitness apps
- Google Glass
  - Facial recognition technology
  - HIPAA concerns
  - Attorney-client privilege
  - Trade secrets

# Protection of Privacy

- Facebook/Twitter/Instagram discoverable
- Waze app data discoverable
- Fitbit data
  - relevant to Workers' Comp
  - Personal injury cases
  - GPS function
  - Should data be considered protected information under HIPAA?
- Repo companies' photography
- Is personal data a company's asset?
  - Sale of data to comply with FTC, any applicable laws
  - Contracts of adhesion & policy provisions



# Flip Side: Apple & EZ Pass

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- Apple & San Bernadino Iphone debate
- EZ Pass will not provide records
- Authorization from Tag holder required
- Can file motion to compel
- Language:

## **AUTHORIZATION FOR RELEASE OF INFORMATION**

The undersigned, owner and holder of EZ-PASS Tag No. \_\_\_\_\_, hereby authorizes EZ-PASS to provide \_\_\_\_\_, through its attorney's, Methfessel & Werbel, Esqs., with records regarding EZ-PASS usage for my EZ-PASS account from \_\_\_\_\_ to \_\_\_\_\_.



# Biotechnology



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# Genetically Modified Food

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## Benefits:

- Increased food safety
- Enhanced nutritional composition of foods
- Food with even more health benefits
- Reduction of certain chronic diseases related to diet

## Risks:

- Allergies
- Toxicity
- Nutrient imbalance
- Decrease of food diversity
- Unknown long term effects

# GMO Labeling Laws

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- Currently Vermont is the only state with a GMO labeling law in effect.
- Maine and Connecticut have passed similar laws, but those laws can't be enacted unless four or five neighboring states also pass mandatory GMO labeling bills.

# Medical Devices

- Hackers have breached hospital networks
  - Medical devices could be programmed improperly or altered to perform tasks not intended to be performed by medical professionals
  - Some of the medical devices hackers can access include implantable heart devices, infusion pumps and medical imaging equipment
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# Medical Devices – FDA Regulations and Guidelines

- FDA issued guidance for medical devices which involved medical technology
- In 2014, the FDA issued recommendations to manufacturers for managing cybersecurity risks to better protect patient health and information

<http://www.fda.gov/downloads/MedicalDevices/DeviceRegulationandGuidance/GuidanceDocuments/ucm077272.pdf>

<https://www.federalregister.gov/articles/2014/10/02/2014-23457/content-of-premarket-submissions-for-management-of-cybersecurity-in-medical-devices-guidance-for>

# Medical Devices - Risks

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- Compatibility with other devices
- Coordination with healthcare providers
  - Different protocols/procedures
  - Use of third party vendors
- Hackers, Malware, Identify Theft
- Learned Intermediaries



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# EMV Chips



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# Security Risks

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- EMV: Europay, Mastercard, and VISA
- Target hack
- Liability shift from issuer to merchant
  
- “Red Flags Rule”
  - Overview at <https://www.ftc.gov/tips-advice/business-center/guidance/fighting-identity-theft-red-flags-rule-how-guide-business>

# Cyber Attacks and Insurance

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- Network security / Cyber insurance
  - Business interruption
  - Regulation breaches
  - Class action suits
    - First party losses
  - Loss of data
  - Damage to reputation
  - Monitoring of consumers for identity theft
  - Breach of regulations
  - Increased D&O liability?
  - Target: \$88,000,000
  - Cyber: As of 2014, underwritten by over 60 insurers and produces \$1bil/year premium income in US\*
- \* Guy Carpenter, Ahead of the Curve: Understanding Emerging Risks, Report September 2014

# Benefits vs. Risks

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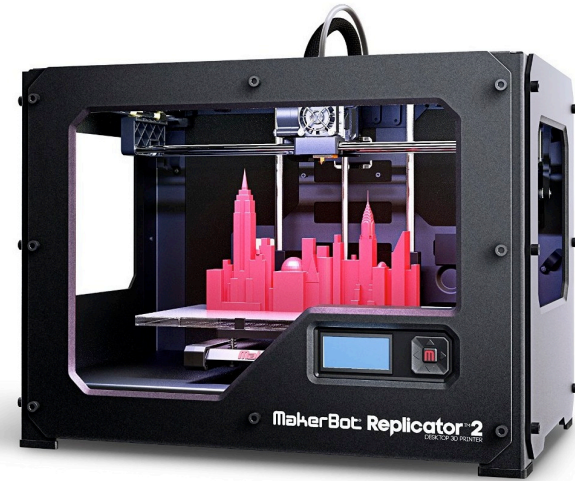
- Wearables may have diagnostic purposes
- Tracking health, movement
- Convenience of phone/apps as “one stop”



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# 3D Printing



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