



HOUSE BILL 128: Prohibit Drone Use Over Prison/Jail.

2017-2018 General Assembly

Committee:		Date:	September 29, 2017
Introduced by:		Prepared by:	Howard Marsilio Staff Attorney
Analysis of:	S.L. 2017-179		

OVERVIEW: *S.L. 2017-19 creates multiple criminal offenses, and exceptions, related to operating an unmanned aircraft system (UAS) near local confinement facilities or State or federal correctional facilities. This act also directs the Division of Aviation of the Department of Transportation to petition the Federal Aviation Administration to designate these facilities as fixed site facilities, and to develop the guidelines for facility boundary notices.*

This act becomes effective December 1, 2017, and applies to offenses committed on or after that date.

CURRENT LAW: The following UAS related offenses make it unlawful to:

- Interfere with manned aircraft, G.S. 14-280.3 Interference with manned aircraft by unmanned aircraft systems. This offense is a Class H felony.
- Possess or use a UAS that has a weapon attached, G.S. 14-401.24(a) Unlawful possession and use of unmanned aircraft systems. This offense is a Class E felony.
- Fish or hunt using a UAS unless an exception for possession or use that is authorized by federal law or regulation applies, G.S. 14-401.24(b) Unlawful possession and use of unmanned aircraft systems. This offense is a Class 1 misdemeanor.
- Publish or disseminate thermal or infrared images revealing individuals, materials, or activities inside of a structure taken by a UAS, G.S. 14-401.25 Unlawful distribution of images. This offense is a Class A1 misdemeanor.
- Intentionally interfere with the lawful taking of wildlife resources with a UAS, G.S. 113-295 Unlawful harassment of persons taking wildlife resources. This offense is a Class 1 misdemeanor.
- Operate a UAS in this State for commercial purposes without a permit, G.S. 63-96 Permit required for commercial operation of unmanned aircraft systems. This offense is a Class 1 misdemeanor.

BILL ANALYSIS:

SECTION 1 - makes unauthorized UAS use within a horizontal distance of 500 feet from buildings, a fixed perimeter, or a marked boundary, or a vertical distance of 250 feet of local confinement facilities or State or federal correctional facilities unlawful.

These distance requirements, listed above, do not apply to the following unless otherwise prohibited by State or federal law:

- A person using a UAS with written consent from the official in responsible charge of the facility.

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- An authorized law enforcement use pursuant to G.S. 15A-300.1(c).
- A public utility, wireless signal provider, or commercial entity using the UAS in compliance with the requirements listed in G.S. 15A-300.3(b)(3).
- An emergency management agency using a UAS in response to an emergency.

This act specifies the following penalties for violations:

- A Class H felony, and a fine of one thousand five hundred dollars (\$1,500), for a violation while delivering or attempting to deliver a weapon.
- A Class I felony, and a fine of one thousand dollars (\$1,000), for a violation while delivering or attempting to deliver contraband. For the purpose of this subdivision, the term "contraband" includes controlled substances, cigarettes, alcohol, and communication devices, but does not include weapons.
- A Class 1 misdemeanor, and a fine of five hundred dollars (\$500.00), for a violation with any other purpose.

This act also authorizes law enforcement to seize a UAS and property used in connection with a violation. A UAS and other property seized in connection with a violation may be forfeited. Unmanned aircraft systems would be forfeited pursuant to G.S. 18B-504 (forfeiture of conveyances used to conceal, convey, or transport intoxicating beverages). Other property, weapons, or contraband would be forfeited pursuant to G.S. 18B-504, G.S. 14-269.1 (confiscation and disposition of deadly weapons), or G.S. 90-112 (forfeiture related to controlled substances).

This act requires the proceeds of seized property disposed of by sale for a violation go to the school fund in accordance with Article IX, Section 7 of the Constitution of North Carolina.

SECTION 2 requires the Division of Aviation of the Department of Transportation to petition the Federal Aviation Administration to designate these facilities as fixed site facilities pursuant to the Extension, Safety, and Security Act of 2016. It would also require the Social Services Commission of DHHS, and DPS, to provide the Division of Aviation with a list of local confinement and state correctional facilities.

SECTION 3 requires the Division of Aviation to develop guidelines for the content and dimensions for posted notices for marked boundaries around facilities.

EFFECTIVE DATE: This act becomes effective December 1, 2017, and applies to offenses committed on or after that date.