



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

2017-2018 General Assembly

<b>Committee:</b>	Senate Rules and Operations of the Senate	<b>Date:</b>	June 26, 2017
<b>Introduced by:</b>	Reps. McNeill, Torbett, Faircloth	<b>Prepared by:</b>	Howard Marsilio Staff Attorney
<b>Analysis of:</b>	Sixth Edition		

**OVERVIEW:** House Bill 128 would create multiple criminal offenses making it unlawful for a person to use an unmanned aircraft system (UAS) near local confinement facilities or State or federal correctional facilities. This bill would create use exceptions from the default distance restrictions. The bill would also require the Division of Aviation of the Department of Transportation to petition the Federal Aviation Administration to designate these facilities as fixed site facilities and develop the guidelines for notices for marked boundaries.

**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** - This bill would make 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.

The following uses would not be violations, unless otherwise prohibited by State or federal law:

- A person using a UAS with written consent from the facility.
- An authorized law enforcement use pursuant to G.S. 15A-300.1(c).

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# House Bill 128

Page 2

- A public utility, wireless signal provider or commercial entity using the UAS for inspections or a purpose directly related to the business, and abiding by certain criteria such as maintaining a 150-foot distance and providing at least 24 hours' notice to the facility prior to operating the UAS.
  - A commercial entity operating in compliance with the other exception requirements would be exempt from the 24-hour notice requirement.
- First responders or emergency management agencies using a UAS in response to an emergency.

The following new criminal offenses would be created:

- 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 for any other purpose.

This bill would also authorize 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).

The proceeds of seized property disposed of by sale for a violation of this act would be paid to the school fund in accordance with Article IX, Section 7 of the Constitution of North Carolina.

**SECTION 2** would require 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** would require the Division to develop guidelines for the content and dimensions for posted notices for marked boundaries around facilities.

**EFFECTIVE DATE:** This act would become effective December 1, 2017, and would apply to offenses committed on or after that date.