



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

2017-2018 General Assembly

Committee:	House Judiciary II	Date:	March 21, 2017
Introduced by:	Reps. McNeill, Torbett, Faircloth	Prepared by:	Susan Sitze
Analysis of:	PCS to Second Edition H128-CSBG-4		Howard Marsilio Committee Counsel

OVERVIEW: *The Proposed Committee Substitute (PCS) 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. The PCS 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 PCS 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.

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- An authorized law enforcement use pursuant to G.S. 15A-300.1(c).
- A public utility or wireless signal provider using a UAS for inspecting lines and equipment with proper notice to the facility and maintaining a horizontal and vertical a distance of 100 feet or more from the facility.

This PCS would create the following new criminal offenses:

- A Class H felony, and a fine of one thousand five hundred dollars (\$1,500), for a violation for the purpose of delivering a weapon.
- A Class I felony, and a fine of one thousand dollars (\$1,000), for a violation for the purpose of delivering 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 PCS 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.

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.