

# ASSEMBLY, No. 5205

## STATE OF NEW JERSEY 217th LEGISLATURE

INTRODUCED NOVEMBER 30, 2017

**Sponsored by:**

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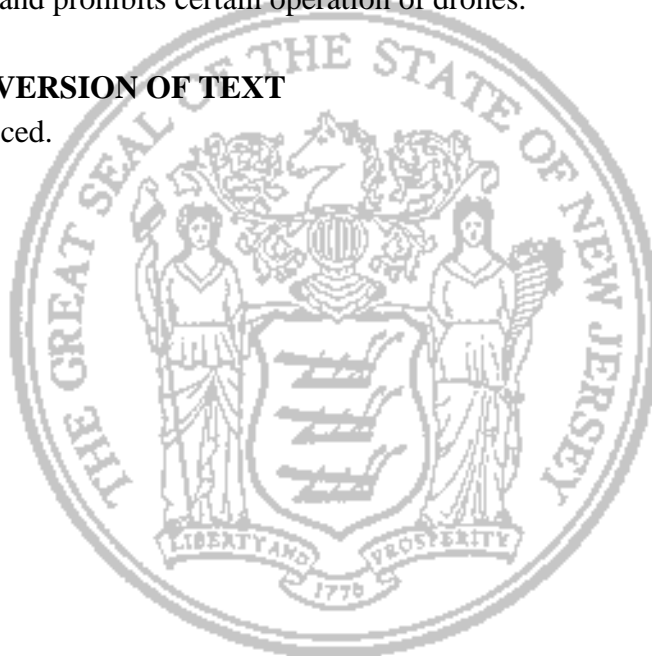
**Assemblywoman Pinkin**

**SYNOPSIS**

Regulates and prohibits certain operation of drones.

**CURRENT VERSION OF TEXT**

As introduced.



(Sponsorship Updated As Of: 1/9/2018)

1 AN ACT concerning the operation of unmanned aircraft systems and  
2 amending and supplementing various parts of the statutory law.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

6

7 1. (New section) a. As used in this act:

8 “Operate” means to fly, control, direct, or program the flight of  
9 an unmanned aircraft system.

10 “Unmanned aircraft” means an aircraft that is operated without  
11 the possibility of direct human intervention from within or on the  
12 aircraft.

13 “Unmanned aircraft system” means an unmanned aircraft and  
14 associated elements, including communication links and the  
15 components that control the unmanned aircraft, that are required for  
16 the pilot in command to operate safely and efficiently.

17 b. Except as otherwise prohibited by P.L. , c. (C. )  
18 (pending before the Legislature as this bill), a person who is  
19 authorized by federal law to operate an unmanned aircraft system  
20 may operate an unmanned aircraft system in this State for any  
21 purpose, provided that the person operates the unmanned aircraft  
22 system in a manner consistent with applicable federal law and  
23 regulations. Nothing in this section shall be construed to affect  
24 federal preemption of State law regarding aviation.

25 For purposes of this subsection, “person” means an individual,  
26 partnership, corporation, association, governmental entity, or other  
27 legal or commercial entity.

28 c. An owner or operator of a critical infrastructure, including a  
29 political subdivision, may apply to the Administrator of the Federal  
30 Aviation Administration, pursuant to section 2209 of the “FAA  
31 Extension, Safety, and Security Act of 2016,” Pub.L.114-190, in  
32 order to prohibit or restrict the operation of unmanned aircraft  
33 systems in close proximity to the critical infrastructure.

34 Prior to applying to the Administrator of the Federal Aviation  
35 Administration to prohibit or restrict the operation of unmanned  
36 aircraft systems in close proximity to a critical infrastructure, a  
37 political subdivision shall hold a minimum of one public hearing,  
38 with adequate notice to the public, concerning the proposed  
39 application.

40

41 2. (New section) a. A person commits a disorderly persons  
42 offense if he knowingly or intentionally operates as defined in  
43 section 1 of P.L. , c. (C. ) (pending before the Legislature  
44 as this bill) an unmanned aircraft system as defined in section 1 of  
45 P.L. , c. (C. ) (pending before the Legislature as this bill) in

**EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.**

**Matter underlined thus is new matter.**

1 a manner that endangers the life or property of another. In making  
2 this determination, the court shall consider the standards for safe  
3 operation of small unmanned aircraft systems prescribed by federal  
4 law or regulation.

5 b. (1) A person commits a crime of the fourth degree if he  
6 knowingly or intentionally creates or maintains a condition which  
7 endangers the safety or security of a correctional facility by  
8 operating an unmanned aircraft system on the premises of or in  
9 close proximity to that facility without license or privilege to do so.

10 (2) A person commits a crime of the third degree if he  
11 knowingly operates an unmanned aircraft system to conduct  
12 surveillance of, or gather information about, a correctional facility  
13 without license or privilege to do so.

14 For purposes of this subsection, "correctional facility" means a  
15 jail, prison, lockup, penitentiary, reformatory, training school, or  
16 other similar facility within the State of New Jersey.

17 c. A person commits a crime of the fourth degree if he  
18 knowingly or intentionally operates an unmanned aircraft system in  
19 a manner that interferes with a first responder who is actively  
20 engaged in response or actively engaged in air, water, vehicular,  
21 ground, or specialized transport.

22 For purposes of this subsection "first responder" means a law  
23 enforcement officer, paid or volunteer firefighter, paid or volunteer  
24 member of a duly incorporated first aid, emergency, ambulance, or  
25 rescue squad association, or any other individual who, in the course  
26 of his employment, is dispatched to the scene of a motor vehicle  
27 accident or other emergency situation for the purpose of providing  
28 medical care or other assistance.

29 d. A person commits a disorderly persons offense if he  
30 knowingly operates an unmanned aircraft system or uses an  
31 unmanned aircraft system to take or assist in the taking of wildlife.

32 e. A person commits a disorderly persons offense if he operates  
33 an unmanned aircraft system while under the influence of  
34 intoxicating liquor, a narcotic, hallucinogenic, or habit-producing  
35 drug or with a blood alcohol concentration of 0.08% or more by  
36 weight of alcohol in the defendant's blood.

37 f. It shall be a violation of any restraining order issued by the  
38 court pursuant to section 2 of P.L.1999, c.47 (C.2C:12-10.2),  
39 section 3 or 4 of P.L.2015, c.147 (C.2C:14-15 or C.2C:14-16),  
40 section 12 of P.L.1991, c.261 (C.2C:25-28), section 4 of P.L.1999,  
41 c.334 (C.2C:35-5.7), or any other court order restraining contact  
42 with a person or location, for a person subject to that order to  
43 knowingly operate an unmanned aircraft system to fly within a  
44 distance of a person or location that would violate that restraining  
45 order.

46 g. Notwithstanding the provisions of N.J.S.2C:1-8 or any other  
47 law to the contrary, a conviction under this section shall not merge  
48 with a conviction of harassment pursuant to N.J.S.2C:33-4, stalking

1 pursuant to section 1 of P.L.1992, c.209 (C.2C:12-10), invasion of  
2 privacy pursuant to section 1 of P.L.2003, c.206 (C.2C:14-9),  
3 obstructing administration of law or other governmental function  
4 pursuant to N.J.S.2C:29-1, introducing contraband pursuant to  
5 N.J.S.2C:29-6, contempt of a domestic violence order pursuant to  
6 subsection b. of N.J.S.2C:29-9 which constitutes a crime or  
7 disorderly persons offense, or any other criminal offense, even if  
8 any other conviction involves the use of an unmanned aircraft  
9 system, nor shall the other conviction merge with a conviction  
10 under this section.

11

12 3. Section 2 of P.L.1994, c.130 (C.2C:43-6.4) is amended to  
13 read as follows:

14 2. a. Notwithstanding any provision of law to the contrary, a  
15 judge imposing sentence on a person who has been convicted of  
16 aggravated sexual assault, sexual assault, aggravated criminal  
17 sexual contact, kidnapping pursuant to paragraph (2) of subsection  
18 c. of N.J.S.2C:13-1, endangering the welfare of a child by engaging  
19 in sexual conduct which would impair or debauch the morals of the  
20 child pursuant to subsection a. of N.J.S.2C:24-4, endangering the  
21 welfare of a child pursuant to paragraph (3) or sub-subparagraph (i)  
22 or (ii) of subparagraph (b) of paragraph (5) of subsection b. of  
23 N.J.S.2C:24-4, luring, violating a condition of a special sentence of  
24 community supervision for life pursuant to subsection d. of this  
25 section, or an attempt to commit any of these offenses shall include,  
26 in addition to any sentence authorized by this Code, a special  
27 sentence of parole supervision for life. Notwithstanding any  
28 provision of law to the contrary, a court imposing sentence on a  
29 person who has been convicted of endangering the welfare of a  
30 child pursuant to paragraph (4) or sub-subparagraph (iii) of  
31 subparagraph (b) of paragraph (5) of subsection b. of N.J.S.2C:24-  
32 4, leader of a child pornography network pursuant to section 8 of  
33 P.L.2017, c.141 (C.2C:24-4.1), or an attempt to commit either of  
34 these offenses shall include, upon motion of the prosecutor, a  
35 special sentence of parole supervision for life in addition to any  
36 sentence authorized by Title 2C of the New Jersey Statutes, unless  
37 the court finds on the record that the special sentence is not needed  
38 to protect the community or deter the defendant from future  
39 criminal activity.

40 b. The special sentence of parole supervision for life required  
41 by this section shall commence immediately upon the defendant's  
42 release from incarceration. If the defendant is serving a sentence of  
43 incarceration for another offense at the time he completes the  
44 custodial portion of the sentence imposed on the present offense,  
45 the special sentence of parole supervision for life shall not  
46 commence until the defendant is actually released from  
47 incarceration for the other offense. Persons serving a special  
48 sentence of parole supervision for life shall remain in the legal

1 custody of the Commissioner of Corrections, shall be supervised by  
2 the Division of Parole of the State Parole Board, shall be subject to  
3 the provisions and conditions set forth in subsection c. of section 3  
4 of P.L.1997, c.117 (C.30:4-123.51b) and sections 15 through 19 and  
5 21 of P.L.1979, c.441 (C.30:4-123.59 through 30:4-123.63 and  
6 30:4-123.65), and shall be subject to conditions appropriate to  
7 protect the public and foster rehabilitation. Such conditions may  
8 include the requirement that the person comply with the conditions  
9 set forth in subsection f. of this section concerning use of a  
10 computer or other device with access to the Internet or the  
11 conditions set forth in subsection g. of this section concerning the  
12 operation as defined in section 1 of P.L. , c. (C. ) (pending  
13 before the Legislature as this bill) of an unmanned aircraft system  
14 as defined in section 1 of P.L. , c. (C. ) (pending before the  
15 Legislature as this bill). If the defendant violates a condition of a  
16 special sentence of parole supervision for life, the defendant shall  
17 be subject to the provisions of sections 16 through 19 and 21 of  
18 P.L.1979, c.441 (C.30:4-123.60 through 30:4-123.63 and 30:4-  
19 123.65), and for the purpose of calculating the limitation on time  
20 served pursuant to section 21 of P.L.1979, c.441 (C.30:4-123.65)  
21 the custodial term imposed upon the defendant related to the special  
22 sentence of parole supervision for life shall be deemed to be a term  
23 of life imprisonment. When the court suspends the imposition of  
24 sentence on a defendant who has been convicted of any offense  
25 enumerated in subsection a. of this section, the court may not  
26 suspend imposition of the special sentence of parole supervision for  
27 life, which shall commence immediately, with the Division of  
28 Parole of the State Parole Board maintaining supervision over that  
29 defendant, including the defendant's compliance with any  
30 conditions imposed by the court pursuant to N.J.S.2C:45-1, in  
31 accordance with the provisions of this subsection. Nothing  
32 contained in this subsection shall prevent the court from at any time  
33 proceeding under the provisions of N.J.S.2C:45-1 through  
34 N.J.S.2C:45-4 against any such defendant for a violation of any  
35 conditions imposed by the court when it suspended imposition of  
36 sentence, or prevent the Division of Parole from proceeding under  
37 the provisions of sections 16 through 19 and 21 of P.L.1979, c.441  
38 (C.30:4-123.60 through 30:4-123.63 and C.30:4-123.65) against any  
39 such defendant for a violation of any conditions of the special  
40 sentence of parole supervision for life, including the conditions  
41 imposed by the court pursuant to N.J.S.2C:45-1. In any such  
42 proceeding by the Division of Parole, the provisions of subsection  
43 c. of section 3 of P.L.1997, c.117 (C.30:4-123.51b) authorizing  
44 revocation and return to prison shall be applicable to such a  
45 defendant, notwithstanding that the defendant may not have been  
46 sentenced to or served any portion of a custodial term for  
47 conviction of an offense enumerated in subsection a. of this section.

1 c. A person sentenced to a term of parole supervision for life  
2 may petition the Superior Court for release from that parole  
3 supervision. The judge may grant a petition for release from a  
4 special sentence of parole supervision for life only upon proof by  
5 clear and convincing evidence that the person has not committed a  
6 crime for 15 years since the last conviction or release from  
7 incarceration, whichever is later, and that the person is not likely to  
8 pose a threat to the safety of others if released from parole  
9 supervision. Notwithstanding the provisions of section 22 of  
10 P.L.1979, c.441 (C.30:4-123.66), a person sentenced to a term of  
11 parole supervision for life may be released from that parole  
12 supervision term only by court order as provided in this subsection.

13 d. A person who violates a condition of a special sentence of  
14 community supervision for life or parole supervision for life  
15 imposed pursuant to this section without good cause is guilty of a  
16 crime of the third degree. Notwithstanding any other law to the  
17 contrary, a person sentenced pursuant to this subsection shall be  
18 sentenced to a term of imprisonment, unless the court is clearly  
19 convinced that the interests of justice so far outweigh the need to  
20 deter this conduct and the interest in public safety that a sentence to  
21 imprisonment would be a manifest injustice. Nothing in this  
22 subsection shall preclude subjecting a person who violates any  
23 condition of a special sentence of parole supervision for life to the  
24 provisions of sections 16 through 19 and 21 of P.L.1979, c.441  
25 (C.30:4-123.60 through 30:4-123.63 and C.30:4-123.65) pursuant to  
26 the provisions of subsection c. of section 3 of P.L.1997, c.117  
27 (C.30:4-123.51b).

28 e. A person who, while serving a special sentence of parole  
29 supervision for life imposed pursuant to this section, commits a  
30 violation of N.J.S.2C:11-3, N.J.S.2C:11-4, N.J.S.2C:11-5,  
31 subsection b. of N.J.S.2C:12-1, N.J.S.2C:13-1, section 1 of  
32 P.L.1993, c.291 (C.2C:13-6), N.J.S.2C:14-2, N.J.S.2C:14-3,  
33 N.J.S.2C:24-4, section 8 of P.L.2017, c.141 (C.2C:24-4.1),  
34 N.J.S.2C:18-2 when the offense is a crime of the second degree, or  
35 subsection a. of N.J.S.2C:39-4 shall be sentenced to an extended  
36 term of imprisonment as set forth in N.J.S.2C:43-7, which term  
37 shall, notwithstanding the provisions of N.J.S.2C:43-7 or any other  
38 law, be served in its entirety prior to the person's resumption of the  
39 term of parole supervision for life.

40 f. The special sentence of parole supervision for life required  
41 by this section may include any of the following Internet access  
42 conditions:

43 (1) Prohibit the person from accessing or using a computer or  
44 any other device with Internet capability without the prior written  
45 approval of the court except the person may use a computer or any  
46 other device with Internet capability in connection with that  
47 person's employment or search for employment with the prior  
48 approval of the person's parole officer;

1 (2) Require the person to submit to periodic unannounced  
2 examinations of the person's computer or any other device with  
3 Internet capability by a parole officer, law enforcement officer or  
4 assigned computer or information technology specialist, including  
5 the retrieval and copying of all data from the computer or device  
6 and any internal or external peripherals and removal of such  
7 information, equipment or device to conduct a more thorough  
8 inspection;

9 (3) Require the person to submit to the installation on the  
10 person's computer or device with Internet capability, at the person's  
11 expense, one or more hardware or software systems to monitor the  
12 Internet use;

13 (4) Require the person to submit to any other appropriate  
14 restrictions concerning the person's use or access of a computer or  
15 any other device with Internet capability; and

16 (5) Require the person to disclose all passwords used by the  
17 person to access any data, information, image, program, signal or  
18 file on the person's computer or any other device with Internet  
19 capability.

20 g. The special sentence of parole supervision for life required  
21 by this section may include reasonable conditions prohibiting or  
22 restricting the person's operation of an unmanned aircraft system in  
23 order to reduce the likelihood of a recurrence of criminal or  
24 delinquent behavior.

25 (cf: P.L.2017, c.141, s.5)

26

27 4. Section 2 of P.L.1993, c.11 (C.23:7A-2) is amended to read  
28 as follows:

29 2. No person may, for the purpose of hindering or preventing  
30 the lawful taking of wildlife:

31 a. block, obstruct, or impede, or attempt to block, obstruct, or  
32 impede, a person lawfully taking wildlife;

33 b. erect a barrier with the intent to deny ingress to or egress  
34 from areas where wildlife may be lawfully taken;

35 c. make, or attempt to make, unauthorized physical contact  
36 with a person lawfully taking wildlife;

37 d. engage in, or attempt to engage in, theft, vandalism, or  
38 destruction of personal or real property;

39 e. disturb or alter, or attempt to disturb or alter, the condition  
40 or authorized placement of personal or real property intended for  
41 use in the lawful taking of wildlife;

42 f. enter or remain upon public lands or waters, or upon private  
43 lands or waters without permission of the owner thereof or an agent  
44 of that landowner, where wildlife may be lawfully taken;

45 g. make or attempt to make loud noises or gestures, set out or  
46 attempt to set out animal baits, scents, or lures or human scent, use  
47 any other natural or artificial visual, aural, olfactory, or physical  
48 stimuli, or engage in or attempt to engage in any other similar

1 action or activity, in order to disturb, alarm, drive, attract, or affect  
2 the behavior of wildlife or disturb, alarm, disrupt, or annoy a person  
3 lawfully taking wildlife; **or**

4 h. interject himself into the line of fire of a person lawfully  
5 taking wildlife; or

6 i. operate as defined in section 1 of P.L. , c. (C. )  
7 (pending before the Legislature as this bill) an unmanned aircraft  
8 system as defined in section 1 of P.L. , c. (C. ) (pending  
9 before the Legislature as this bill).

10 Subsections a., b., e., f., **and** g., and i. of this section shall not  
11 apply to a law enforcement officer or conservation officer enforcing  
12 the laws of this State or any local ordinance, or a private landowner  
13 or agent thereof on land or waters owned by that private landowner.  
14 (cf: P.L.1993, c.11, s.2)

15

16 5. The provisions of P.L. , c. (C. ) (pending before the  
17 Legislature as this bill) shall preempt any law, ordinance,  
18 resolution, or regulation adopted by the governing body of a county  
19 or municipality concerning the private use of an unmanned aircraft  
20 system that is inconsistent with the provisions of this act.

21

22 6. Nothing in P.L. , c. (C. ) (pending before the  
23 Legislature as this bill) shall prohibit the authorized use, in  
24 compliance with applicable federal rules and regulations, of an  
25 unmanned aircraft system by a public employee or a public entity,  
26 or by a first responder in the performance of official duties.

27 For purposes of this section “first responder” means a law  
28 enforcement officer, paid or volunteer firefighter, paid or volunteer  
29 member of a duly incorporated first aid, emergency, ambulance, or  
30 rescue squad association, or any other individual who, in the course  
31 of his employment, is dispatched to the scene of a motor vehicle  
32 accident or other emergency situation for the purpose of providing  
33 medical care or other assistance.

34

35 7. This act shall take effect on the first day of the fourth month  
36 next following the date of enactment.

37

38

39

#### STATEMENT

40

41 This bill regulates and prohibits the operation of unmanned  
42 aircraft systems, commonly referred to as drones, under certain  
43 circumstances.

44 Under the bill, it is a disorderly persons offense to operate a  
45 drone: 1) knowingly or intentionally in a manner that endangers the  
46 life or property of another; 2) to take or assist in the taking of  
47 wildlife; and 3) while under the influence of intoxicating liquor, a  
48 narcotic, hallucinogenic, or habit-producing drug or with a blood



1 alcohol concentration of 0.08% or more by weight of alcohol.  
2 Disorderly persons offenses are punishable by a term of  
3 imprisonment of up to six months, a fine of up to \$1,000, or both.

4 The bill provides that it is a fourth degree crime for a person to  
5 knowingly or intentionally: 1) create or maintain a condition that  
6 endangers the safety or security of a correctional facility by  
7 operating a drone on the premises of or in close proximity to the  
8 facility; and 2) operate a drone in a manner that interferes with a  
9 first responder who is actively engaged in response or air, water,  
10 vehicular, ground, or specialized transport. Fourth degree crimes  
11 are punishable by a term of imprisonment of up to 18 months, a fine  
12 of up to \$10,000, or both.

13 Further, it is a third degree crime for a person to knowingly  
14 operate a drone to conduct surveillance of or gather information  
15 about a correctional facility. Third degree crimes are punishable by  
16 a term of imprisonment of three to five years, a fine of up to  
17 \$15,000, or both.

18 In addition, the bill prohibits a person from operating a drone for  
19 the purpose of hindering or preventing the lawful taking of wildlife.

20 The bill also provides that it is a violation of a restraining order  
21 or any other court order restraining contact with a person or  
22 location for a person who is subject to that order to operate a drone  
23 within a distance of a person or location that would violate the  
24 order.

25 The bill provides that a conviction under the bill is not to merge  
26 with a conviction of harassment, stalking, invasion of privacy,  
27 obstructing the administration of law or other governmental  
28 function, introducing contraband into a correctional facility, certain  
29 offenses of contempt of a domestic violence order, or any other  
30 criminal offense even if the other conviction involves the use of a  
31 drone.

32 In addition, under the bill, a special sentence of parole  
33 supervision for life may include reasonable conditions prohibiting  
34 or restricting a person's operation of a drone in order to reduce the  
35 likelihood or recurrence of criminal or delinquent behavior.

36 The bill provides that, except as prohibited by the provisions of  
37 the bill, a person who is authorized by federal law to operate a  
38 drone may do so, provided that operation is in a manner consistent  
39 with federal law and regulations.

40 Further, the bill provides that an owner or operator of a critical  
41 infrastructure, including a political subdivision, may apply to the  
42 Administrator of the Federal Aviation Administration (FAA),  
43 pursuant to the "FAA Extension, Safety, and Security Act of 2016,"  
44 Pub.L.114-190, in order to prohibit or restrict the operation of  
45 drones in close proximity to the critical infrastructure. In the case  
46 of a political subdivision, the political subdivision is required to  
47 hold at least one public hearing concerning the proposed FAA  
48 application.

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1       Finally, the provisions of this bill are to preempt any law,  
2 ordinance, resolution, or regulation adopted by the governing body  
3 of a county or municipality concerning the private use of a drone  
4 that is inconsistent with the bill's provisions.