

ASSEMBLY, No. 5205

STATE OF NEW JERSEY 217th LEGISLATURE

INTRODUCED NOVEMBER 30, 2017

Sponsored by:

Assemblywoman ANNETTE QUIJANO

District 20 (Union)

Assemblyman JON M. BRAMNICK

District 21 (Morris, Somerset and Union)

Assemblyman VINCENT MAZZEO

District 2 (Atlantic)

Assemblyman RAJ MUKHERJI

District 33 (Hudson)

Assemblyman DANIEL R. BENSON

District 14 (Mercer and Middlesex)

SYNOPSIS

Regulates and prohibits certain operation of drones.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 12/8/2017)

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.