

P.L. 2017, CHAPTER 315, *approved January 16, 2018*
Senate, No. 3370 (*First Reprint*)

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,

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.

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate SBA committee amendments adopted November 30, 2017.

1 with adequate notice to the public, concerning the proposed
2 application.

3
4 2. (New section) a. A person commits a disorderly persons
5 offense if he knowingly or intentionally operates as defined in
6 section 1 of P.L. , c. (C.) (pending before the Legislature
7 as this bill) an unmanned aircraft system as defined in section 1 of
8 P.L. , c. (C.) (pending before the Legislature as this bill) in
9 a manner that endangers the life or property of another. In making
10 this determination, the court shall consider the standards for safe
11 operation of small unmanned aircraft systems prescribed by federal
12 law or regulation.

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

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

22 For purposes of this subsection, “correctional facility” means a
23 jail, prison, lockup, penitentiary, reformatory, training school, or
24 other similar facility within the State of New Jersey.

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

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

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

40 e. A person commits a disorderly persons offense if he operates
41 an unmanned aircraft system while under the influence of
42 intoxicating liquor, a narcotic, hallucinogenic, or habit-producing
43 drug or with a blood alcohol concentration of 0.08% or more by
44 weight of alcohol in the defendant’s blood.

45 f. It shall be a violation of any restraining order issued by the
46 court pursuant to section 2 of P.L.1999, c.47 (C.2C:12-10.2),
47 section 3 or 4 of P.L.2015, c.147 (C.2C:14-15 or C.2C:14-16),
48 section 12 of P.L.1991, c.261 (C.2C:25-28), section 4 of P.L.1999,

1 c.334 (C.2C:35-5.7), or any other court order restraining contact
2 with a person or location, for a person subject to that order to
3 knowingly operate an unmanned aircraft system to fly within a
4 distance of a person or location that would violate that restraining
5 order.

6 g. Notwithstanding the provisions of N.J.S.2C:1-8 or any other
7 law to the contrary, a conviction under this section shall not merge
8 with a conviction of harassment pursuant to N.J.S.2C:33-4, stalking
9 pursuant to section 1 of P.L.1992, c.209 (C.2C:12-10), invasion of
10 privacy pursuant to section 1 of P.L.2003, c.206 (C.2C:14-9),
11 obstructing administration of law or other governmental function
12 pursuant to N.J.S.2C:29-1, introducing contraband pursuant to
13 N.J.S.2C:29-6, contempt of a domestic violence order pursuant to
14 subsection b. of N.J.S.2C:29-9 which constitutes a crime or
15 disorderly persons offense, or any other criminal offense, even if
16 any other conviction involves the use of an unmanned aircraft
17 system, nor shall the other conviction merge with a conviction
18 under this section.

19

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

22 2. a. Notwithstanding any provision of law to the contrary, a
23 judge imposing sentence on a person who has been convicted of
24 aggravated sexual assault, sexual assault, aggravated criminal sexual
25 contact, kidnapping pursuant to paragraph (2) of subsection c. of
26 N.J.S.2C:13-1, endangering the welfare of a child by engaging in
27 sexual conduct which would impair or debauch the morals of the child
28 pursuant to subsection a. of N.J.S.2C:24-4, endangering the welfare of
29 a child pursuant to paragraph (3) ¹or sub-subparagraph (i) or (ii) of
30 subparagraph (b) of paragraph (5)¹ of subsection b. of N.J.S.2C:24-4,
31 luring, violating a condition of a special sentence of community
32 supervision for life pursuant to subsection d. of this section, or an
33 attempt to commit any of these offenses shall include, in addition to
34 any sentence authorized by this Code, a special sentence of parole
35 supervision for life. Notwithstanding any provision of law to the
36 contrary, a court imposing sentence on a person who has been
37 convicted of endangering the welfare of a child pursuant to paragraph
38 (4) or ¹sub-subparagraph (iii) of subparagraph (b) of paragraph¹ (5) of
39 subsection b. of N.J.S.2C:24-4, ¹leader of a child pornography
40 network pursuant to section 8 of P.L.2017, c.141 (C.2C:24-4.1),¹ or an
41 attempt to commit either of these offenses shall include, upon motion
42 of the prosecutor, a special sentence of parole supervision for life in
43 addition to any sentence authorized by Title 2C of the New Jersey
44 Statutes, unless the court finds on the record that the special sentence
45 is not needed to protect the community or deter the defendant from
46 future criminal activity.

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

1 Division of Parole, the provisions of subsection c. of section 3 of
2 P.L.1997, c.117 (C.30:4-123.51b) authorizing revocation and return to
3 prison shall be applicable to such a defendant, notwithstanding that the
4 defendant may not have been sentenced to or served any portion of a
5 custodial term for conviction of an offense enumerated in subsection a.
6 of this section.

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

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

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

43 f. The special sentence of parole supervision for life required by
44 this section may include any of the following Internet access
45 conditions:

46 (1) Prohibit the person from accessing or using a computer or any
47 other device with Internet capability without the prior written approval
48 of the court except the person may use a computer or any other device

1 with Internet capability in connection with that person's employment
2 or search for employment with the prior approval of the person's
3 parole officer;

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

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

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

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

20 g. The special sentence of parole supervision for life required by
21 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 delinquent
24 behavior.

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

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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)

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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.

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

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Regulates and prohibits certain operation of drones.