

SENATE, No. 3370

STATE OF NEW JERSEY 217th LEGISLATURE

INTRODUCED JUNE 26, 2017

Sponsored by:

Senator PAUL A. SARLO

District 36 (Bergen and Passaic)

Senator JIM WHELAN

District 2 (Atlantic)

SYNOPSIS

Regulates and prohibits certain operation of drones.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 10/6/2017)

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) of subsection b. of
22 N.J.S.2C:24-4, luring, violating a condition of a special sentence of
23 community supervision for life pursuant to subsection d. of this
24 section, or an attempt to commit any of these offenses shall include,
25 in addition to any sentence authorized by this Code, a special
26 sentence of parole supervision for life. Notwithstanding any
27 provision of law to the contrary, a court imposing sentence on a
28 person who has been convicted of endangering the welfare of a
29 child pursuant to paragraph (4) or (5) of subsection b. of
30 N.J.S.2C:24-4, or an attempt to commit either of these offenses
31 shall include, upon motion of the prosecutor, a special sentence of
32 parole supervision for life in addition to any sentence authorized by
33 Title 2C of the New Jersey Statutes, unless the court finds on the
34 record that the special sentence is not needed to protect the
35 community or deter the defendant from future criminal activity.

36 b. The special sentence of parole supervision for life required
37 by this section shall commence immediately upon the defendant's
38 release from incarceration. If the defendant is serving a sentence of
39 incarceration for another offense at the time he completes the
40 custodial portion of the sentence imposed on the present offense,
41 the special sentence of parole supervision for life shall not
42 commence until the defendant is actually released from
43 incarceration for the other offense. Persons serving a special
44 sentence of parole supervision for life shall remain in the legal
45 custody of the Commissioner of Corrections, shall be supervised by
46 the Division of Parole of the State Parole Board, shall be subject to
47 the provisions and conditions set forth in subsection c. of section 3
48 of P.L.1997, c.117 (C.30:4-123.51b) and sections 15 through 19 and

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

44 c. A person sentenced to a term of parole supervision for life
45 may petition the Superior Court for release from that parole
46 supervision. The judge may grant a petition for release from a
47 special sentence of parole supervision for life only upon proof by
48 clear and convincing evidence that the person has not committed a

1 crime for 15 years since the last conviction or release from
2 incarceration, whichever is later, and that the person is not likely to
3 pose a threat to the safety of others if released from parole
4 supervision. Notwithstanding the provisions of section 22 of
5 P.L.1979, c.441 (C.30:4-123.66), a person sentenced to a term of
6 parole supervision for life may be released from that parole
7 supervision term only by court order as provided in this subsection.

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

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

34 f. The special sentence of parole supervision for life required
35 by this section may include any of the following Internet access
36 conditions:

37 (1) Prohibit the person from accessing or using a computer or
38 any other device with Internet capability without the prior written
39 approval of the court except the person may use a computer or any
40 other device with Internet capability in connection with that
41 person's employment or search for employment with the prior
42 approval of the person's parole officer;

43 (2) Require the person to submit to periodic unannounced
44 examinations of the person's computer or any other device with
45 Internet capability by a parole officer, law enforcement officer or
46 assigned computer or information technology specialist, including
47 the retrieval and copying of all data from the computer or device
48 and any internal or external peripherals and removal of such

1 information, equipment or device to conduct a more thorough
2 inspection;

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

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

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

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

19 (cf: P.L.2013, c.214, s.4)

20

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

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

25 a. block, obstruct, or impede, or attempt to block, obstruct, or
26 impede, a person lawfully taking wildlife;

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

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

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

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

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

39 g. make or attempt to make loud noises or gestures, set out or
40 attempt to set out animal baits, scents, or lures or human scent, use
41 any other natural or artificial visual, aural, olfactory, or physical
42 stimuli, or engage in or attempt to engage in any other similar
43 action or activity, in order to disturb, alarm, drive, attract, or affect
44 the behavior of wildlife or disturb, alarm, disrupt, or annoy a person
45 lawfully taking wildlife **[or]**

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

1 i. operate as defined in section 1 of P.L. , c. (C.)
2 (pending before the Legislature as this bill) an unmanned aircraft
3 system as defined in section 1 of P.L. , c. (C.) (pending
4 before the Legislature as this bill).

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

10

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

16

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

22 For purposes of this section “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

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

32

33

34

STATEMENT

35

36 This bill regulates and prohibits the operation of unmanned
37 aircraft systems, commonly referred to as drones, under certain
38 circumstances.

39 Under the bill, it is a disorderly persons offense to operate a
40 drone: 1) knowingly or intentionally in a manner that endangers the
41 life or property of another; 2) to take or assist in the taking of
42 wildlife; and 3) while under the influence of intoxicating liquor, a
43 narcotic, hallucinogenic, or habit-producing drug or with a blood
44 alcohol concentration of 0.08% or more by weight of alcohol.
45 Disorderly persons offenses are punishable by a term of
46 imprisonment of up to six months, a fine of up to \$1,000, or both.

47 The bill provides that it is a fourth degree crime for a person to
48 knowingly or intentionally: 1) create or maintain a condition that

1 endangers the safety or security of a correctional facility by
2 operating a drone on the premises of or in close proximity to the
3 facility; and 2) operate a drone in a manner that interferes with a
4 first responder who is actively engaged in response or air, water,
5 vehicular, ground, or specialized transport. Fourth degree crimes
6 are punishable by a term of imprisonment of up to 18 months, a fine
7 of up to \$10,000, or both.

8 Further, it is a third degree crime for a person to knowingly
9 operate a drone to conduct surveillance of or gather information
10 about a correctional facility. Third degree crimes are punishable by
11 a term of imprisonment of three to five years, a fine of up to
12 \$15,000, or both.

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

15 The bill also provides that it is a violation of a restraining order
16 or any other court order restraining contact with a person or
17 location for a person who is subject to that order to operate a drone
18 within a distance of a person or location that would violate the
19 order.

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

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

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

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

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