

[First Reprint]

SENATE, No. 3370

STATE OF NEW JERSEY
217th LEGISLATURE

INTRODUCED JUNE 26, 2017

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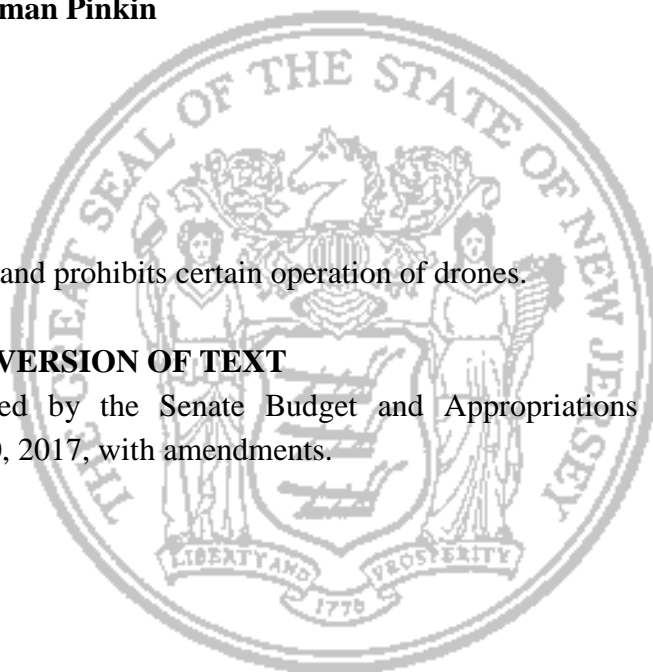
Assemblywoman Pinkin

SYNOPSIS

Regulates and prohibits certain operation of drones.

CURRENT VERSION OF TEXT

As reported by the Senate Budget and Appropriations Committee on November 30, 2017, with amendments.



(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.

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate SBA committee amendments adopted November 30, 2017.

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

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

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

46 c. A person sentenced to a term of parole supervision for life may
47 petition the Superior Court for release from that parole supervision.
48 The judge may grant a petition for release from a special sentence of

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

9 d. A person who violates a condition of a special sentence of
10 community supervision for life or parole supervision for life imposed
11 pursuant to this section without good cause is guilty of a crime of the
12 third degree. Notwithstanding any other law to the contrary, a person
13 sentenced pursuant to this subsection shall be sentenced to a term of
14 imprisonment, unless the court is clearly convinced that the interests of
15 justice so far outweigh the need to deter this conduct and the interest in
16 public safety that a sentence to imprisonment would be a manifest
17 injustice. Nothing in this subsection shall preclude subjecting a person
18 who violates any condition of a special sentence of parole supervision
19 for life to the provisions of sections 16 through 19 and 21 of P.L.1979,
20 c.441 (C.30:4-123.60 through 30:4-123.63 and C.30:4-123.65)
21 pursuant to the provisions of subsection c. of section 3 of P.L.1997,
22 c.117 (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, subsection
26 b. of N.J.S.2C:12-1, N.J.S.2C:13-1, section 1 of P.L.1993, c.291
27 (C.2C:13-6), N.J.S.2C:14-2, N.J.S.2C:14-3, N.J.S.2C:24-4, ¹section 8
28 of P.L.2017, c.141 (C.2C:24-4.1),¹ N.J.S.2C:18-2 when the offense is
29 a crime of the second degree, or subsection a. of N.J.S.2C:39-4 shall
30 be sentenced to an extended term of imprisonment as set forth in
31 N.J.S.2C:43-7, which term shall, notwithstanding the provisions of
32 N.J.S.2C:43-7 or any other law, be served in its entirety prior to the
33 person's resumption of the term of parole supervision for life.

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

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

1 internal or external peripherals and removal of such information,
2 equipment or device to conduct a more thorough inspection;

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

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

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

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

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

18

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

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

23 a. block, obstruct, or impede, or attempt to block, obstruct, or
24 impede, a person lawfully taking wildlife;

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

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

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

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

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

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

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

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

1 system as defined in section 1 of P.L. , c. (C.) (pending
2 before the Legislature as this bill).

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

8
9 5. The provisions of P.L. , c. (C.) (pending before the
10 Legislature as this bill) shall preempt any law, ordinance,
11 resolution, or regulation adopted by the governing body of a county
12 or municipality concerning the private use of an unmanned aircraft
13 system that is inconsistent with the provisions of this act.

14
15 6. Nothing in P.L. , c. (C.) (pending before the
16 Legislature as this bill) shall prohibit the authorized use, in
17 compliance with applicable federal rules and regulations, of an
18 unmanned aircraft system by a public employee or a public entity,
19 or by a first responder in the performance of official duties.

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

27
28 7. This act shall take effect on the first day of the fourth month
29 next following the date of enactment.