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HOUSE DRH30711-SAfz-16A (02/17)

Short Title: Unmanned Aircraft Regulation. (Public)

Sponsors: Representative Torbett.

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO REGULATE THE USE OF UNMANNED AIRCRAFT SYSTEMS, AS
3 RECOMMENDED BY THE LEGISLATIVE RESEARCH COMMISSION'S
4 COMMITTEE ON UNMANNED AIRCRAFT SYSTEMS.

5 The General Assembly of North Carolina enacts:

6 SECTION 1. Chapter 15A of the General Statutes is amended by adding a new
7 Article to read:

8 "Article 16B.

9 "Use of Unmanned Aircraft Systems.

10 **§ 15A-300.1. Restrictions on use of unmanned aircraft systems.**

11 (a) The following definitions apply to this section:

12 (1) Manned aircraft. – An aircraft, as defined in G.S. 63-1, that is operated with
13 a person in or on the aircraft.

14 (2) Unmanned aircraft. – An aircraft, as defined in G.S. 63-1, that is operated
15 without the possibility of human intervention from within or on the aircraft.

16 (3) Unmanned aircraft system. – An unmanned aircraft and associated elements,
17 including communication links and components that control the unmanned
18 aircraft that are required for the pilot in command to operate safely and
19 efficiently in the national airspace system.

20 (b) Except as otherwise provided in this section, no person, entity, or State agency shall
21 use an unmanned aircraft system to do any of the following:

22 (1) Conduct surveillance of:

23 a. An individual or a dwelling owned by an individual and that
24 dwelling's curtilage without the individual's written consent.

25 b. A farm, dairy, ranch, or other agricultural industry without the
26 written consent of the owner of the farm, dairy, ranch, or other
27 agricultural industry.

28 (2) Photograph an individual, without the individual's written consent, for the
29 purpose of publishing or otherwise publicly disseminating the photograph.
30 This subdivision shall not apply to newsworthy events or events to which the
31 public is invited.

32 (c) Notwithstanding the provisions of subsection (b) of this section, the use of
33 unmanned aircraft systems by law enforcement agencies of the State, or a political subdivision
34 of the State, is not prohibited in the following instances:



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- (1) To counter a high risk of a terrorist attack by a specific individual or organization if the United States Secretary of Homeland Security determines that credible intelligence indicates that there is such a risk.
- (2) To conduct surveillance that would not require a warrant if conducted by a manned aircraft.
- (3) If the law enforcement agency first obtains a search warrant authorizing the use of an unmanned aircraft system.
- (4) If the law enforcement agency possesses reasonable suspicion that, under particular circumstances, swift action is needed to prevent imminent danger to life or serious damage to property, to forestall the imminent escape of a suspect or the destruction of evidence, or to facilitate the search for a missing person.
- (5) To photograph public gatherings on public or private land.

(d) Any person who is the subject of unwarranted surveillance, or whose photograph is taken in violation of the provisions of this section, shall have a civil cause of action against the person, entity, or State agency that conducts the surveillance or that uses an unmanned aircraft system to photograph for the purpose of publishing or otherwise disseminating the photograph.

(e) Evidence obtained or collected in violation of this section is not admissible as evidence in a criminal prosecution in any court of law in this State."

SECTION 2. Chapter 14 of the General Statutes is amended by adding a new Article to read:

Article 2F.

"Crimes by Unmanned Aircraft Systems.

"§ 14-7.45. Crimes committed by use of unmanned aircraft systems.

All crimes committed by use of an unmanned aircraft system, as defined in G.S. 15A-300.1, while in flight over this State shall be governed by the laws of this State; and the question of whether the conduct by an unmanned aircraft system while in flight over this State constitutes a crime by the owner of the unmanned aircraft system shall be determined by the laws of this State."

SECTION 3. Article 36 of Chapter 14 of the General Statutes is amended by adding a new section to read:

"§ 14-280.3. Interference with manned aircraft by unmanned aircraft systems.

(a) Any person who willfully damages, disrupts the operation of, or otherwise interferes with a manned aircraft through use of an unmanned aircraft system, while the manned aircraft is taking off, landing, in flight, or otherwise in motion, is guilty of a Class H felony.

(b) The following definitions apply to this section:

(1) Manned aircraft. – As defined in G.S. 15A-300.1.

(2) Unmanned aircraft system. – As defined in G.S. 15A-300.1."

SECTION 4. Article 52 of Chapter 14 of the General Statutes is amended by adding a new section to read:

"§ 14-401.24. Unlawful possession and use of unmanned aircraft systems.

(a) It shall be a Class I felony for any person to possess or use an unmanned aircraft or unmanned aircraft system that has a weapon attached.

(b) It shall be a Class 3 misdemeanor for any person to fish or to hunt using an unmanned aircraft system.

(c) The following definitions apply to this section:

(1) To fish. – As defined in G.S. 113-130.

(2) To hunt. – As defined in G.S. 113-130.

(3) Unmanned aircraft. – As defined in G.S. 15A-300.1.

(4) Unmanned aircraft system. – As defined in G.S. 15A-300.1.

1 (5) Weapon. – Those weapons specified in G.S. 14-269, 14-269.2, 14-284.1, or
2 14-288.8 and any other object capable of inflicting serious bodily injury or
3 death when used as a weapon.

4 (d) This section shall not prohibit possession or usage of an unmanned aircraft or
5 unmanned aircraft system that is authorized by federal law or regulation."

6 **SECTION 5.(a)** Chapter 63 of the General Statutes is amended by adding a new
7 Article to read:

8 "Article 10.

9 "Operation of Unmanned Aircraft Systems.

10 **"§ 63-95. Training required for operation of unmanned aircraft systems.**

11 (a) As used in this Article, the term "Division" means the Division of Aviation of the
12 Department of Transportation.

13 (b) The Division shall develop a knowledge and skills test for operating an unmanned
14 aircraft system that complies with all applicable State and federal regulations and shall provide
15 for administration of the test. The Division may permit a person, including an agency of this
16 State, an agency of a political subdivision of this State, an employer, or a private training
17 facility, to administer the test developed pursuant to this subsection, provided the test is the
18 same as that administered by the Division and complies with all applicable State and federal
19 regulations.

20 (c) No agent or agency of the State, or agent or agency of a political subdivision of the
21 State, may operate an unmanned aircraft system within the State without completion of the test
22 set forth in subsection (b) of this section."

23 **"§ 63-96. License required for commercial operation of unmanned aircraft systems.**

24 (a) No person shall operate an unmanned aircraft system, as defined in G.S. 15A-300.1,
25 in this State for commercial purposes unless the person is in possession of a license issued by
26 the Division valid for the unmanned aircraft system being operated. Application for such
27 license shall be made in the manner provided by the Division. Unless suspended or revoked,
28 the license shall be effective for a period to be established by the Division not exceeding eight
29 years.

30 (b) No person shall be issued a license under this section unless all of the following
31 apply:

32 (1) The person is at least 21 years of age.

33 (2) The person possesses a valid driver's license issued by any state or territory
34 of the United States or the District of Columbia.

35 (3) The person has passed the knowledge and skills test for operating an
36 unmanned aircraft system as prescribed in G.S. 63-95(b).

37 (4) The person has satisfied all other applicable requirements of this Article or
38 federal regulation.

39 (c) A license to operate an unmanned aircraft system for commercial purposes shall not
40 be issued to a person while the person's license to operate an unmanned aircraft system is
41 suspended, revoked, or cancelled in any state.

42 (d) The Division shall develop and administer a program to license operators of
43 unmanned aircraft systems for commercial purposes. The program must include the following
44 components:

45 (1) A system for classifying unmanned aircraft systems based on characteristics
46 determined to be appropriate by the Division.

47 (2) A fee structure for licenses.

48 (3) A license application process.

49 (4) Technical guidance for complying with program requirements.

50 (5) Criteria under which the Division may suspend or revoke a license.

- 1 (6) Criteria under which the Division may waive licensure requirements for
2 applicants currently holding a valid license to operate unmanned aircraft
3 systems issued by another state or territory of the United States, the District
4 of Columbia, or the United States.
- 5 (7) A designation of the geographic area within which a licensee shall be
6 authorized to operate an unmanned aircraft system.
- 7 (8) Requirements pertaining to the collection, use, and retention of data by
8 licensees obtained through the operation of unmanned aircraft systems, to be
9 established in consultation with the State Chief Information Officer.
- 10 (9) Requirements for the marking of each unmanned aircraft system operated
11 pursuant to a license issued under this section sufficient to permit
12 identification of the owner of the system and the person licensed to operate
13 it.
- 14 (10) A system for providing agencies that conduct other operations within
15 regulated airspace with the identity and contact information of licensees and
16 the geographic areas within which the licensee is permitted to operate an
17 unmanned aircraft system.
- 18 (e) A person who operates an unmanned aircraft system for commercial purposes other
19 than as permitted under this section shall for a first offense be guilty of an infraction and shall
20 for a second or subsequent offense be guilty of a Class 3 misdemeanor.
- 21 (f) The Division may issue rules and regulations to implement the provisions of this
22 section."

23 **SECTION 5.(b)** The Division of Aviation of the Department of Transportation
24 shall develop and implement the knowledge and skills test required by G.S. 63-95, as enacted
25 in subsection (a) of this section, no later than February 1, 2015, and shall report to the Joint
26 Legislative Transportation Oversight Committee on the status of implementation by March 1,
27 2015.

28 **SECTION 5.(c)** The Division of Aviation of the Department of Transportation
29 shall immediately begin developing the licensing system for commercial operation required by
30 G.S. 63-96, as enacted in subsection (a) of this section, and shall ensure that the system
31 complies with Federal Aviation Administration (FAA) guidelines on commercial operation, as
32 those guidelines become available. Within 60 days of issuance of the FAA guidelines and
33 authorization by the FAA for commercial operations to begin, the Division shall implement the
34 licensing system required by G.S. 63-96, as enacted in subsection (a) of this section.

35 **SECTION 5.(d)** No operation of unmanned aircraft systems by agents or agencies
36 of the State, or agents or agencies of a political subdivision of the State, shall be authorized in
37 this State until the knowledge and skills test required by G.S. 63-95, as enacted in subsection
38 (a) of this section, has been implemented.

39 No operation of unmanned aircraft systems for commercial purposes shall be
40 authorized in this State until the FAA has authorized commercial operations and the licensing
41 system required by G.S. 63-96, as enacted in subsection (a) of this section, has been
42 implemented.

43 **SECTION 6.** Section 7.16(e) of S.L. 2013-360 is repealed.

44 **SECTION 7.** Sections 1 and 6 of this act become effective when the Division of
45 Aviation of the Department of Transportation has implemented the knowledge and skills test
46 required by G.S. 63-95, as enacted in Section 5 of this act, or February 1, 2015, whichever
47 occurs first. Sections 2, 3, and 4 of this act become effective December 1, 2014, and apply to
48 offenses committed on or after that date. The remainder of this act is effective when it becomes
49 law.