

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2013

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HOUSE BILL 1099  
PROPOSED COMMITTEE SUBSTITUTE H1099-PCS40266-SA-67

Short Title: Unmanned Aircraft Regulation.

(Public)

Sponsors:

Referred to:

May 19, 2014

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) Definitions. – The following definitions apply to this Article:

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) Model aircraft. – An aircraft, as defined in G.S. 63-1, that is mechanically  
15 driven or launched into flight, and which meets all of the following  
16 requirements:

17 a. Is flown solely for hobby or recreational purposes.

18 b. Is not used for payment, consideration, gratuity, or benefit,  
19 directly or indirectly charged, demanded, received, or  
20 collected by any person for the use of the aircraft or any  
21 photographic or video image produced by the aircraft.

22 (3) Unmanned aircraft. – An aircraft, as defined in G.S. 63-1, that is operated  
23 without the possibility of human intervention from within or on the aircraft  
24 and that does not meet the definition of model aircraft.

25 (4) Unmanned aircraft system. – An unmanned aircraft and associated elements,  
26 including communication links and components that control the unmanned  
27 aircraft that are required for the pilot in command to operate safely and  
28 efficiently in the national airspace system.

29 (b) General Prohibitions. – Except as otherwise provided in this section, no person,  
30 entity, or State agency shall use an unmanned aircraft system to do any of the following:

31 (1) Conduct surveillance of:

32 a. A person or a dwelling occupied by a person and that dwelling's  
33 curtilage without the person's consent.

34 b. Private real property without the consent of the owner, easement  
35 holder, or lessee of the property.



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

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

(1) To counter a high risk of a terrorist attack by a specific individual or organization if the United States Secretary of Homeland Security or the Secretary of the North Carolina Department of Public Safety determines that credible intelligence indicates that such a risk exists.

(2) To conduct surveillance in an area that is within a law enforcement officer's plain view when the officer is in a location the officer has a legal right to be.

(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, to conduct pursuit of an escapee or suspect, or to facilitate the search for a missing person.

(5) To photograph gatherings to which the general public is invited on public or private land.

(d) Limitations on Use of Special Imaging Technology. – Commercial and private unmanned aircraft systems may be equipped with infrared or other thermal imaging technology subject to the provisions of this subsection. Infrared or other similar thermal imaging technology equipment shall be for the sole purpose of scientific investigation; scientific research; mapping and evaluating the earth's surface, including terrain and surface water bodies and other features; investigation or evaluation of crops, livestock, or farming operations; investigation of forests and forest management; and other similar investigations of vegetation or wildlife.

(e) 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. In lieu of actual damages, the person whose photograph is taken may elect to recover five thousand dollars (\$5,000) for each photograph or video that is published or otherwise disseminated, as well as reasonable costs and attorneys' fees and injunctive or other relief as determined by the court.

(f) 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 except when obtained or collected under the objectively reasonable, good-faith belief that the actions were lawful.

**"§ 15A-300.2. Regulation of launch and recovery sites.**

(a) No unmanned aircraft system may be launched or recovered from any State or private property without consent.

(b) A unit of local government may adopt an ordinance to regulate the use of the local government's property for the launch or recovery of unmanned aircraft systems."

**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.**

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

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

8 **"§ 14-280.3. Interference with manned aircraft by unmanned aircraft systems.**

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

12 (b) The following definitions apply to this section:

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

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

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

17 **"§ 14-401.24. Unlawful possession and use of unmanned aircraft systems.**

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

20 (b) It shall be a Class 1 misdemeanor for any person to fish or to hunt using an  
21 unmanned aircraft system.

22 (c) The following definitions apply to this section:

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

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

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

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

27 (5) Weapon. – Those weapons specified in G.S. 14-269, 14-269.2, 14-284.1, or  
28 14-288.8 and any other object capable of inflicting serious bodily injury or  
29 death when used as a weapon.

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

32 **SECTION 5.** Article 52 of Chapter 14 of the General Statutes is amended by  
33 adding a new section to read:

34 **"§ 14-401.25. Unlawful distribution of images.**

35 It shall be a Class A1 misdemeanor to publish or disseminate, for any purpose, recorded  
36 images taken by a person or non-law enforcement entity through the use of infrared or other  
37 similar thermal imaging technology attached to an unmanned aircraft system, as defined in  
38 G.S. 15A-300.1, and revealing individuals, materials, or activities inside of a structure without  
39 the consent of the property owner."

40 **SECTION 6.** G.S. 113-295 reads as rewritten:

41 **"§ 113-295. Unlawful harassment of persons taking wildlife resources.**

42 (a) It is unlawful for a person to interfere intentionally with the lawful taking of wildlife  
43 resources or to drive, harass, or intentionally disturb any wildlife resources for the purpose of  
44 disrupting the lawful taking of wildlife resources. It is unlawful to take or abuse property,  
45 equipment, or hunting dogs that are being used for the lawful taking of wildlife resources. This  
46 subsection does not apply to a person who incidentally interferes with the taking of wildlife  
47 resources while using the land for other lawful activity such as agriculture, mining, or  
48 recreation. This subsection also does not apply to activity by a person on land he owns or  
49 leases.

50 Violation of this subsection is a Class 2 misdemeanor for a first conviction and a Class 1  
51 misdemeanor for a second or subsequent conviction.

1        (a) It is unlawful to use an unmanned aircraft system, as defined in G.S. 15A-300.1, to  
2 violate subsection (a) of this section. Violation of this subsection is a Class 1 misdemeanor.

3        (b) The Wildlife Resources Commission may, either before or after the institution of  
4 any other action or proceeding authorized by this section, institute a civil action for injunctive  
5 relief to restrain a violation or threatened violation of subsection (a) of this section pursuant to  
6 G.S. 113-131. The action shall be brought in the superior court of the county in which the  
7 violation or threatened violation is occurring or about to occur and shall be in the name of the  
8 State upon the relation of the Wildlife Resources Commission. The court, in issuing any final  
9 order in any action brought pursuant to this subsection may, in its discretion, award costs of  
10 litigation including reasonable attorney and expert-witness fees to any party."

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

13    "Article 10.

14    "Operation of Unmanned Aircraft Systems.

15 **"§ 63-95. Training required for operation of unmanned aircraft systems.**

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

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

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

28 **"§ 63-96. License required for commercial operation of unmanned aircraft systems.**

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

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

- 37            (1) The person is at least 18 years of age.
- 38            (2) The person possesses a valid driver's license issued by any state or territory  
39 of the United States or the District of Columbia.
- 40            (3) The person has passed the knowledge and skills test for operating an  
41 unmanned aircraft system as prescribed in G.S. 63-95(b).
- 42            (4) The person has satisfied all other applicable requirements of this Article or  
43 federal regulation.

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

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

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

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

26           **SECTION 7.(b)** The Division of Aviation of the Department of Transportation  
27 shall develop and implement the knowledge and skills test required by G.S. 63-95, as enacted  
28 in subsection (a) of this section, no later than May 31, 2015, and shall report to the Joint  
29 Legislative Transportation Oversight Committee on the status of implementation by June 15,  
30 2015.

31           **SECTION 7.(c)** The Division of Aviation of the Department of Transportation  
32 shall immediately begin developing the licensing system for commercial operation required by  
33 G.S. 63-96, as enacted in subsection (a) of this section, and shall ensure that the system  
34 complies with Federal Aviation Administration (FAA) guidelines on commercial operation, as  
35 those guidelines become available. Within 60 days of issuance of the FAA guidelines and  
36 authorization by the FAA for commercial operations to begin, the Division shall implement the  
37 licensing system required by G.S. 63-96, as enacted in subsection (a) of this section.

38           **SECTION 7.(d)** No operation of unmanned aircraft systems by agents or agencies  
39 of the State, or agents or agencies of a political subdivision of the State, shall be authorized in  
40 this State until the knowledge and skills test required by G.S. 63-95, as enacted in subsection  
41 (a) of this section, has been implemented.

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

46           **SECTION 8.** Section 7.16(e) of S.L. 2013-360 is repealed.

47           **SECTION 9.** Section 1 of this act becomes effective October 1, 2014, and applies  
48 to acts occurring on or after that date. Sections 2, 3, 4, 5, and 6 of this act become effective  
49 December 1, 2014, and apply to offenses committed on or after that date. Section 8 of this act  
50 becomes effective when the Division of Aviation of the Department of Transportation has  
51 implemented the knowledge and skills test required by G.S. 63-95, as enacted in Section 7 of

1 this act, or May 31, 2015, whichever occurs first. The remainder of this act is effective when it  
2 becomes law.