

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

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HOUSE BILL 128
Committee Substitute Favorable 3/7/17
Committee Substitute #2 Favorable 3/21/17
Committee Substitute #3 Favorable 4/4/17
PROPOSED SENATE COMMITTEE SUBSTITUTE H128-PCS40602-BG-25

Short Title: Prohibit Drone Use Over Prison/Jail.

(Public)

Sponsors:

Referred to:

February 20, 2017

1 A BILL TO BE ENTITLED
2 AN ACT TO PROHIBIT THE USE OF AN UNMANNED AIRCRAFT SYSTEM NEAR A
3 LOCAL CONFINEMENT FACILITY OR STATE OR FEDERAL CORRECTIONAL
4 FACILITY.

5 The General Assembly of North Carolina enacts:

6 SECTION 1. Article 16B of Chapter 15A of the General Statutes is amended by
7 adding a new section to read:

8 "§ 15A-300.3. Use of an unmanned aircraft system near a confinement or correctional
9 facility prohibited.

10 (a) Prohibition. – No person, entity, or State agency shall use an unmanned aircraft
11 system within a horizontal distance of 500 feet or a vertical distance of 250 feet from any local
12 confinement facility, as defined in G.S. 153A-217, or State or federal correctional facility. For
13 the purpose of this section, horizontal distance shall extend outward from the furthest exterior
14 building walls, perimeter fences, and permanent fixed perimeter, or from another boundary
15 clearly marked with posted notices. Posted notices shall be conspicuously posted not more than
16 100 yards apart along a marked boundary and comply with Department of Transportation
17 guidelines.

18 (b) Exceptions. – Unless the use of the unmanned aircraft system is otherwise
19 prohibited under State or federal law, the distance restrictions of subsection (a) of this section
20 do not apply to any of the following:

21 (1) A person operating an unmanned aircraft system with written consent from
22 the official in responsible charge of the facility.

23 (2) A law enforcement officer using an unmanned aircraft system in accordance
24 with G.S. 15A-300.1(c).

25 (3) A public utility, as defined in G.S. 62-3(23), a provider, as defined in
26 G.S. 146-29.2(a)(6), or a commercial entity, provided that the public utility,
27 provider, or commercial entity complies with all of the following:

28 a. The unmanned aircraft system remains outside a horizontal distance
29 of 150 feet or a vertical distance of 150 feet from any local
30 confinement facility or State or federal correctional facility.

31 b. Notifies the official in responsible charge of the facility at least 24
32 hours prior to operating the unmanned aircraft system. A commercial
33 entity operating in compliance with G.S.15A-300.1 and pursuant to



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1 the provisions of this subdivision is exempt from the 24-hour notice
2 requirement.

3 c. Uses the unmanned aircraft system for the purpose of inspecting
4 public utility or provider transmission lines, equipment, or
5 communication infrastructure or for another purpose directly related
6 to the business of the public utility, provider, or commercial entity.

7 d. Uses the unmanned aircraft system for commercial purposes pursuant
8 to and in compliance with (i) Federal Aviation Administration
9 regulations, authorizations, or exemptions and (ii) Article 10 of
10 Chapter 63 of the General Statutes.

11 e. The person operating the unmanned aircraft system does not
12 physically enter the prohibited space without an escort from the
13 facility.

14 (4) An emergency management agency, as defined in G.S. 166A-19.3,
15 emergency medical services personnel, firefighters, and law enforcement
16 officers, when using an unmanned aircraft system in response to an
17 emergency.

18 (c) Penalty. – The following penalties apply for violations of this section:

19 (1) A person who uses an unmanned aircraft system (i) in violation of
20 subsection (a) of this section or (ii) pursuant to an exception in subsection
21 (b) of this section and who delivers, or attempts to deliver, a weapon to a
22 local confinement facility or State or federal correctional facility is guilty of
23 a Class H felony, which shall include a fine of one thousand five hundred
24 dollars (\$1,500). For purposes of this subdivision, the term "weapon" is as
25 defined in G.S. 14-401.24(c).

26 (2) A person who uses an unmanned aircraft system (i) in violation of
27 subsection (a) of this section or (ii) pursuant to an exception in subsection
28 (b) of this section and who delivers, or attempts to deliver, contraband to a
29 local confinement facility or State or federal correctional facility is guilty of
30 a Class I felony, which shall include a fine of one thousand dollars (\$1,000).
31 For purposes of this subdivision, the term "contraband" includes controlled
32 substances, as defined in G.S. 90-87, cigarettes, alcohol, and communication
33 devices, but does not include weapons.

34 (3) A person who uses an unmanned aircraft system in violation of subsection
35 (a) of this section for any other purpose is guilty of a Class 1 misdemeanor,
36 which shall include a fine of five hundred dollars (\$500.00).

37 (d) Seizure, Forfeiture, and Disposition of Seized Property. – A law enforcement
38 agency may seize an unmanned aircraft system and any attached property, weapons, and
39 contraband used in violation of this section. An unmanned aircraft system used in violation of
40 this section and seized by a law enforcement agency is subject to forfeiture and disposition
41 pursuant to G.S. 18B-504. An innocent owner or holder of a security interest applying to the
42 court for release of the unmanned aircraft system, in accordance with G.S. 18B-504(h), shall
43 also provide proof of ownership or security interest and written certification that the unmanned
44 aircraft system will not be returned to the person who was charged with the violation of
45 subsection (a) of this section. The court shall forfeit and dispose of any other property,
46 weapons, or contraband seized by a law enforcement agency in connection with a violation of
47 this section pursuant to G.S. 18B-504, 14-269.1, 90-112, or any combination thereof."

48 **SECTION 2.** For the purpose of restricting the operation of an unmanned aircraft
49 system in accordance with Section 1 of this act, the Division of Aviation of the Department of
50 Transportation shall petition the Federal Aviation Administration (FAA) to designate any local
51 confinement facility, as defined in G.S. 153A-217, or State or federal correctional facility in the

1 State as a fixed site facility, pursuant to rules and regulations adopted pursuant to section 2209
2 of the FAA Extension, Safety, and Security Act of 2016, Public Law No. 114-190. The
3 Division shall follow all guidance from the FAA in submitting and processing the petition. The
4 Division shall publish designations by the FAA in accordance with this act on the Division
5 Web site.

6 At the request of the Division, the Social Services Commission of the Department of
7 Health and Human Services shall provide to the Division a list of local confinement facilities,
8 as defined in G.S. 153A-217, including facility location and a contact person for each facility.
9 At the request of the Division, the Department of Public Safety shall provide to the Division a
10 list of State correctional facilities, including facility location, a contact person for each facility,
11 and each facility's operational status.

12 **SECTION 3.** The Division of Aviation of the Department of Transportation shall
13 develop guidelines for the content and dimensions for posted notices to mark boundaries in
14 accordance with Section 1 of this act.

15 **SECTION 4.** This act becomes effective December 1, 2017, and applies to
16 offenses committed on or after that date.