

Senator Wayne A. Harper proposes the following substitute bill:

1 **UNMANNED AIRCRAFT AMENDMENTS**

2 2017 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Wayne A. Harper**

5 House Sponsor: Kay J. Christofferson

6

LONG TITLE

7 **General Description:**

8 This bill modifies and establishes provisions related to unmanned aircraft.

9 **Highlighted Provisions:**

10 This bill:

- 11 ▶ defines terms;
- 12 ▶ reorganizes existing code related to unmanned aircraft;
- 13 ▶ preempts local laws related to unmanned aircraft;
- 14 ▶ exempts unmanned aircraft from registration with the state of Utah;
- 15 ▶ enacts provisions related to operation of unmanned aircraft by law enforcement,

16 including:

- 17
 - 18 • data collection, reporting, retention, and use;
 - 19 • use of an unmanned aircraft for law enforcement operations; and
 - 20 • use of data obtained by an unmanned aircraft operated by a civilian;
 - 21 ▶ establishes certain safety requirements and limitations for the operation of an
- 22 unmanned aircraft;
- 23 ▶ prohibits use of an unmanned aircraft equipped with a weapon;
- 24 ▶ prohibits a person from:
 - 25 • committing trespass with an unmanned aircraft;



- 26 • committing a privacy violation with an unmanned aircraft; or
27 • committing voyeurism with an unmanned aircraft;
28 ▸ establishes criminal penalties; and
29 ▸ makes technical changes

30 **Money Appropriated in this Bill:**

31 None

32 **Other Special Clauses:**

33 None

34 **Utah Code Sections Affected:**

35 **AMENDS:**

36 [72-10-109](#), as renumbered and amended by Laws of Utah 1998, Chapter 270
37 [76-6-206](#), as last amended by Laws of Utah 2015, Chapter 412
38 [76-9-402](#), as enacted by Laws of Utah 1973, Chapter 196
39 [76-9-702.7](#), as last amended by Laws of Utah 2004, Chapter 52

40 **ENACTS:**

41 [72-14-103](#), Utah Code Annotated 1953
42 [72-14-104](#), Utah Code Annotated 1953
43 [72-14-201](#), Utah Code Annotated 1953
44 [72-14-202](#), Utah Code Annotated 1953
45 [72-14-205](#), Utah Code Annotated 1953
46 [72-14-301](#), Utah Code Annotated 1953
47 [72-14-302](#), Utah Code Annotated 1953
48 [72-14-303](#), Utah Code Annotated 1953
49 [72-14-401](#), Utah Code Annotated 1953
50 [72-14-402](#), Utah Code Annotated 1953
51 [72-14-403](#), Utah Code Annotated 1953

52 **RENUMBERS AND AMENDS:**

53 [72-14-101](#), (Renumbered from 63G-18-101, as last amended by Laws of Utah 2016,
54 Chapter 101)
55 [72-14-102](#), (Renumbered from 63G-18-102, as last amended by Laws of Utah 2015,
56 Chapter 269)

57 **72-14-203**, (Renumbered from 63G-18-103, as last amended by Laws of Utah 2015,
58 Chapter 269)

59 **72-14-204**, (Renumbered from 63G-18-104, as last amended by Laws of Utah 2015,
60 Chapter 269)

61 REPEALS:

62 **63G-18-105**, as last amended by Laws of Utah 2015, Chapter 269

63 *Be it enacted by the Legislature of the state of Utah:*

64 Section 1. Section **72-10-109** is amended to read:

65 **72-10-109. Certificate of registration of aircraft required -- Exceptions.**

66 (1) (a) A person may not operate, pilot, or navigate, or cause or authorize to be
67 operated, piloted, or navigated within this state any civil aircraft located in this state unless the
68 aircraft has a current certificate of registration issued by this state through the county in which
69 the aircraft is located.

70 (b) This restriction does not apply to aircraft licensed by a foreign country with which
71 the United States has a reciprocal agreement covering the operations of the registered aircraft
72 or to a non-passenger-carrying flight solely for inspection or test purposes authorized by the
73 Federal Aviation Administration to be made without the certificate of registration.

74 (2) Aircraft assessed by the State Tax Commission are exempt from the state
75 registration requirement under Subsection (1).

76 (3) Unmanned aircraft as defined in Section **72-14-102** are exempt from the state
77 registration requirement under Subsection (1).

78 Section 2. Section **72-14-101**, which is renumbered from Section 63G-18-101 is
79 renumbered and amended to read:

80 **CHAPTER 14. UNMANNED AIRCRAFT -- DRONES**

81 **Part 1. General Provisions**

82 **[63G-18-101]. 72-14-101. Title.**

83 This chapter is known as "Unmanned Aircraft -- Drones."

84 Section 3. Section **72-14-102**, which is renumbered from Section 63G-18-102 is
85 renumbered and amended to read:

86 **[63G-18-102]. 72-14-102. Definitions.**

88 As used in this chapter:

89 [§(1) "Law enforcement agency" means an entity of the state or an entity of a political
90 subdivision of the state, including an entity of a state institution of higher education, that exists
91 primarily to prevent, detect, or prosecute crime and enforce criminal statutes or ordinances.]

92 [§(2) "Nongovernment actor" means a person that is not:]

93 [§(a) an agency, department, division, or other entity within state government;]
94 [§(b) a person employed by or otherwise acting in an official capacity on behalf of the
95 state;]
96 [§(c) a political subdivision of the state; or]
97 [§(d) a person employed by or otherwise acting in an official capacity on behalf of a
98 political subdivision of the state.]

99 [§(3) "Target" means a person upon whom, or a structure or area upon which, a person:]

100 [§(a) has intentionally collected or attempted to collect information through the
101 operation of an unmanned aircraft system; or]
102 [§(b) plans to collect or attempt to collect information through the operation of an
103 unmanned aircraft system.]

104 [§(4) "Testing site" means an area that:]

105 [§(a) has boundaries that are clearly identified using GPS coordinates;]
106 [§(b) a law enforcement agency identifies in writing to the Department of Public Safety,
107 including the boundaries identified under Subsection (4)(a);]
108 [§(c) is not more than three square miles; and]
109 [§(d) contains no occupied structures.]

110 (1) "Airport" means the same as that term is defined in Section [72-10-102](#).
111 (2) "Airport operator" means the same as that term is defined in Section [72-10-102](#).

112 [§(5)(a)] (3) "Unmanned aircraft [system]" means an aircraft that is:
113 [§(i) (a) [is] capable of sustaining flight; and
114 [§(ii) (b) [operates] operated with no possible direct human intervention from on or
115 within the aircraft.
116 [§(b)] (4) "Unmanned aircraft system" [does not include an unmanned aircraft that is
117 flown] means the entire system used to operate an unmanned aircraft, including:
118 [§(i) within visual line of sight of the individual operating the aircraft; and]

119 [~~(ii) strictly for hobby or recreational purposes.~~]
120 (a) the unmanned aircraft, including payload;
121 (b) communications equipment;
122 (c) navigation equipment;
123 (d) controllers;
124 (e) support equipment; and
125 (f) autopilot functionality.

126 Section 4. Section **72-14-103** is enacted to read:

127 **72-14-103. Preemption of local ordinance.**

128 (1) A political subdivision of the state, or an entity within a political subdivision of the
129 state, may not enact a law, ordinance, or rule governing the private use of an unmanned aircraft
130 unless:

131 (a) authorized by this chapter; or
132 (b) the political subdivision or entity is an airport operator that enacts the law, rule, or
133 ordinance to govern:
134 (i) the operation of an unmanned aircraft within the geographic boundaries of the
135 airport over which the airport operator has authority; or
136 (ii) the takeoff or landing of an unmanned aircraft at the airport over which the airport
137 operator has authority.

138 (2) This chapter supersedes any law, ordinance, or rule enacted by a political
139 subdivision of the state before July 1, 2017.

140 Section 5. Section **72-14-104** is enacted to read:

141 **72-14-104. Applicability.**

142 This chapter does not apply to a person or business entity:

143 (1) using an unmanned aircraft for legitimate educational or business purposes; and
144 (2) operating the unmanned aircraft system in a manner consistent with applicable
145 Federal Aviation Administration rules, exemptions, or other authorizations.

146 Section 6. Section **72-14-201** is enacted to read:

147 **Part 2. Law Enforcement Use of Unmanned Aircraft**

148 **72-14-201. Title.**

149 This part is known as "Law Enforcement Use of Unmanned Aircraft."

150 Section 7. Section **72-14-202** is enacted to read:

151 **72-14-202. Definitions.**

152 As used in this part:

153 (1) "Civilian" means a person that is not a law enforcement officer.

154 (2) "Law enforcement agency" means the same as that term is defined in Section
155 53-3-102.

156 (3) "Law enforcement officer" means the same as that term is defined in Section
157 53-13-103.

158 (4) "Target" means a person upon whom, or an object, structure, or area upon which,
159 another person:

160 (a) has intentionally collected or attempted to collect information through the operation
161 of an unmanned aircraft system; or

162 (b) intends to collect or to attempt to collect information through the operation of an
163 unmanned aircraft system.

164 Section 8. Section **72-14-203**, which is renumbered from Section 63G-18-103 is
165 renumbered and amended to read:

166 [~~63G-18-103~~]. **72-14-203. Unmanned aircraft system use requirements --**

167 **Exceptions.**

168 (1) A law enforcement agency or officer may not obtain, receive, or use data acquired
169 through an unmanned aircraft system unless the data is obtained:

170 (a) pursuant to a search warrant;

171 (b) in accordance with judicially recognized exceptions to warrant requirements;

172 (c) subject to Subsection (2), from a person who is a nongovernment actor;

173 [~~(d) at a testing site; or~~]

174 [~~(e)~~] (d) to locate a lost or missing person in an area in which a person has no
175 reasonable expectation of privacy[-]; or

176 (e) for purposes unrelated to a criminal investigation.

177 [~~(2)~~] A nongovernment actor may only disclose data acquired through an unmanned
178 aircraft system to a law enforcement agency if:]

179 (2) A law enforcement officer or agency may only use for law enforcement purposes
180 data obtained from a nongovernment actor if:

- 181 (a) the data appears to pertain to the commission of a crime; or
182 (b) the [nongovernment actor] law enforcement agency or officer believes, in good
183 faith, that:
184 (i) the data pertains to an imminent or ongoing emergency involving danger of death or
185 serious bodily injury to an individual; and
186 (ii) disclosing the data would assist in remedying the emergency.
187 (3) A law enforcement agency or officer that obtains, receives, or uses data acquired
188 [under Subsection (1)(d) or (e)] through the use of an unmanned aircraft system or through
189 Subsection (2) shall destroy the data as soon as reasonably possible after the law enforcement
190 agency or officer obtains, receives, or uses the data subject to an applicable retention schedule
191 under Title 63G, Chapter 2, Government Records Access and Management Act, or a federal,
192 state, or local law.
- 193 [(4) A law enforcement agency that operates an unmanned aircraft system under
194 Subsection (1)(d) may not operate the unmanned aircraft system outside of the testing site.]
- 195 Section 9. Section **72-14-204**, which is renumbered from Section 63G-18-104 is
196 renumbered and amended to read:
- 197 **[63G-18-104]. 72-14-204. Data retention.**
- 198 (1) Except as provided in this section, a law enforcement agency:
199 (a) may not use, copy, or disclose data collected by an unmanned aircraft system on a
200 person, structure, or area that is not a target; and
201 (b) in accordance with applicable federal, state, and local laws, shall ensure that data
202 described in Subsection (1)(a) is destroyed as soon as reasonably possible after the law
203 enforcement agency collects or receives the data.
- 204 (2) A law enforcement agency is not required to comply with Subsection (1) if:
205 (a) deleting the data would also require the deletion of data that:
206 (i) relates to the target of the operation; and
207 (ii) is requisite for the success of the operation;
208 (b) the law enforcement agency receives the data:
209 (i) through a court order that:
210 (A) requires a person to release the data to the law enforcement agency; or
211 (B) prohibits the destruction of the data; or

212 (ii) from a person who is a nongovernment actor;
213 (c) (i) the data was collected inadvertently; and
214 (ii) the data appears to pertain to the commission of a crime;
215 (d) (i) the law enforcement agency reasonably determines that the data pertains to an
216 emergency situation; and
217 (ii) using or disclosing the data would assist in remedying the emergency; or
218 (e) the data was collected through the operation of an unmanned aircraft system over
219 public lands outside of municipal boundaries.

220 Section 10. Section **72-14-205** is enacted to read:

221 **72-14-205. Reporting.**

222 (1) As used in this section, "law enforcement encounter" means the same as that term is
223 defined in Section **77-7a-103**.

224 (2) A law enforcement officer or agency that operates an unmanned aircraft system
225 while on duty or acting in the law enforcement officer's or agency's official capacity, or obtains
226 or receives data in accordance with Section **72-14-203**, shall document the following in any
227 report or other official record of the law enforcement encounter:

228 (a) the presence and use of the unmanned aircraft;
229 (b) any data acquired; and
230 (c) if applicable, the person from whom data was received in accordance with
231 Subsection **72-14-203(2)**.

232 Section 11. Section **72-14-301** is enacted to read:

233 **Part 3. Unlawful Use of Unmanned Aircraft**

234 **72-14-301. Title.**

235 This part is known as "Unlawful Use of Unmanned Aircraft."

236 Section 12. Section **72-14-302** is enacted to read:

237 **72-14-302. Reserved.**

238 Reserved.

239 Section 13. Section **72-14-303** is enacted to read:

240 **72-14-303. Weapon attached to unmanned aircraft -- Penalties.**

241 (1) As used in this section "weapon" means:

242 (a) a firearm as described in Section **76-10-501**; or

243 (b) an object that in the manner of the object's use or intended use is capable of causing
244 death, bodily injury, or damage to property, as determined according to the following factors:

- 245 (i) the location and circumstances in which the object is used or possessed;
- 246 (ii) the primary purpose for which the object is made;
- 247 (iii) the character of the damage, if any, the object is likely to cause;
- 248 (iv) the manner in which the object is used;
- 249 (v) whether the manner in which the object is used or possessed constitutes a potential
250 imminent threat to public safety; and
- 251 (vi) the lawful purposes for which the object may be used.

252 (2) (a) Except as provided in Subsection (3), a person may not fly an unmanned aircraft
253 that carries a weapon or to which a weapon is attached.

254 (b) A person that violates Subsection (2)(a) is guilty of a class B misdemeanor.

255 (3) A person may fly an unmanned aircraft that carries a weapon or to which a weapon
256 is attached if the person:

257 (a) (i) obtains a certificate of authorization, or other written approval, from the Federal
258 Aviation Administration authorizing the person to fly the unmanned aircraft that carries the
259 weapon or to which the weapon is attached; and

260 (ii) operates the unmanned aircraft in accordance with the certificate of authorization or
261 other written approval;

262 (b) (i) obtains a contract with the state or the federal government permitting the person
263 to fly the unmanned aircraft that carries the weapon or to which the weapon is attached; and

264 (ii) operates the unmanned aircraft in accordance with the contract; or

265 (c) operates the unmanned aircraft that carries the weapon or to which the weapon is
266 attached in airspace controlled by the United States Department of Defense, with the
267 permission of the United States Department of Defense.

268 Section 14. Section **72-14-401** is enacted to read:

Part 4. Safe Use of Unmanned Aircraft

72-14-401. Title.

271 This part is known as "Safe Use of Unmanned Aircraft."

272 Section 15. Section **72-14-402** is enacted to read:

72-14-402. Reserved.

274 Reserved.

275 Section 16. Section **72-14-403** is enacted to read:

276 **72-14-403. Safe operation of unmanned aircraft.**

277 (1) An individual who operates an unmanned aircraft system to fly an unmanned
278 aircraft for recreational purposes shall comply with this section and 14 C.F.R. Sec. 101,
279 Subpart E.

280 (2) An individual operating an unmanned aircraft shall:

281 (a) maintain visual line of sight of the unmanned aircraft in order to:

282 (i) know the location of the unmanned aircraft;

283 (ii) determine the attitude, altitude, and direction of flight;

284 (iii) observe the airspace for other air traffic or hazards; and

285 (iv) determine that the unmanned aircraft does not endanger the life or property of
286 another person;

287 (b) ensure that the ability described in Subsection (2)(a)(i) is exercised by either:

288 (i) the operator of the unmanned aircraft; or

289 (ii) a visual observer.

290 (3) An individual may not operate an unmanned aircraft in Class B, Class C, or Class
291 D airspace or within the lateral boundaries of the surface area of Class E airspace designated
292 for an airport unless the operator of the unmanned aircraft has prior authorization from air
293 traffic control.

294 (4) An individual may not operate an unmanned aircraft in a manner that interferes
295 with operations and traffic patterns at any airport, heliport, or seaplane base.

296 (5) An individual may not operate an unmanned aircraft system:

297 (a) from a public transit rail platform or station; or

298 (b) (i) under a height of 50 feet within a public transit fixed guideway right-of-way;
299 and

300 (ii) directly above any overhead electric lines used to power a public transit rail
301 vehicle.

302 (6) An individual may not operate an unmanned aircraft in violation of a notice to
303 airmen described in 14 C.F.R. Sec. 107.47.

304 (7) An individual may not operate an unmanned aircraft at an altitude that is higher

305 than 400 feet above ground level unless the unmanned aircraft:

306 (a) is flown within a 400-foot radius of a structure; and

307 (b) does not fly higher than 400 feet above the structure's immediate uppermost limit.

308 (8) (a) An individual who violates this section is liable for any damages that may result
309 from the violation.

310 (b) A law enforcement officer shall issue a written warning to an individual who
311 violates this section who has not previously received a written warning for a violation of this
312 section.

313 (c) Except as provided in Subsection (8)(d), an individual who violates this section
314 after receiving a written warning for a previous violation of this section is guilty of an
315 infraction.

316 (d) An individual who violates this section is guilty of a class B misdemeanor for each
317 conviction of a violation of this section after the individual is convicted of an infraction or a
318 misdemeanor for a previous violation of this section.

319 Section 17. Section **76-6-206** is amended to read:

320 **76-6-206. Criminal trespass.**

321 (1) As used in this section[,"enter"]:

322 (a) "Enter" means intrusion of the entire body[:]or the entire unmanned aircraft.

323 (b) "Remain unlawfully," as that term relates to an unmanned aircraft, means remaining
324 on or over private property when:

325 (i) the private property or any portion of the private property is not open to the public;
326 and

327 (ii) the person operating the unmanned aircraft is not otherwise authorized to fly the
328 unmanned aircraft over the private property or any portion of the private property.

329 (2) A person is guilty of criminal trespass if, under circumstances not amounting to
330 burglary as defined in Section **76-6-202**, **76-6-203**, or **76-6-204** or a violation of Section
331 **76-10-2402** regarding commercial obstruction:

332 (a) the person enters or remains unlawfully on or causes an unmanned aircraft to enter
333 and remain unlawfully over property and:

334 (i) intends to cause annoyance or injury to any person or damage to any property,
335 including the use of graffiti as defined in Section **76-6-107**;

336 (ii) intends to commit any crime, other than theft or a felony; or
337 (iii) is reckless as to whether [his] the person's or unmanned aircraft's presence will
338 cause fear for the safety of another;
339 (b) knowing the person's or unmanned aircraft's entry or presence is unlawful, the
340 person enters or remains on property as or causes an unmanned aircraft to enter or remain
341 unlawfully over property to which notice against entering is given by:
342 (i) personal communication to the [actor] person by the owner or someone with
343 apparent authority to act for the owner;
344 (ii) fencing or other enclosure obviously designed to exclude intruders; or
345 (iii) posting of signs reasonably likely to come to the attention of intruders; or
346 (c) the person enters a condominium unit in violation of Subsection 57-8-7(8).
347 (3) (a) A violation of Subsection (2)(a) or (b) is a class B misdemeanor unless [it was]
348 the violation is committed in a dwelling, in which event [it] the violation is a class A
349 misdemeanor.
350 (b) A violation of Subsection (2)(c) is an infraction.
351 (4) It is a defense to prosecution under this section that:
352 (a) the property was at the time open to the public; and
353 (b) the actor complied with all lawful conditions imposed on access to or remaining on
354 the property.

355 Section 18. Section **76-9-402** is amended to read:

356 **76-9-402. Privacy violation.**

357 (1) A person is guilty of privacy violation if, except as authorized by law, [he] the
358 person:
359 (a) trespasses on property with intent to subject anyone to eavesdropping or other
360 surveillance in a private place; [or]
361 (b) [Installs in any] installs, or uses after unauthorized installation in a private place,
362 without the consent of the person or persons entitled to privacy [there] in the private place, any
363 device for observing, photographing, hearing, recording, amplifying, or broadcasting sounds or
364 events in the [place or uses any such unauthorized installation] private place; or
365 (c) installs or uses outside of a private place [any] a device for observing,
366 photographing, hearing, recording, amplifying, or broadcasting sounds or events originating in

367 the private place which would not ordinarily be audible, visible or comprehensible outside the
368 private place, without the consent of the person or persons entitled to privacy [there] in the
369 private place.

370 (2) A person is not guilty of a violation of this section if:

371 (a) the device used is an unmanned aircraft;

372 (b) the person is operating the unmanned aircraft for legitimate commercial or
373 educational purposes in a manner consistent with applicable Federal Aviation Administration
374 rules, exemptions, or other authorizations; and

375 (c) any conduct described in Subsection (1) that occurs via the unmanned aircraft is
376 solely incidental to the lawful commercial or educational use of the unmanned aircraft.

377 [(2)] (3) Privacy violation is a class B misdemeanor.

378 Section 19. Section **76-9-702.7** is amended to read:

379 **76-9-702.7. Voyeurism offenses -- Penalties.**

380 (1) A person is guilty of voyeurism who intentionally uses [~~a camcorder, motion~~
381 ~~picture camera, photographic camera of any type, or other equipment that is concealed or~~
382 ~~disguised to secretly or surreptitiously videotape, film, photograph, record, or view by~~
383 ~~electronic means an individual~~] any type of technology to secretly or surreptitiously record
384 video of a person:

385 (a) for the purpose of viewing any portion of the individual's body regarding which the
386 individual has a reasonable expectation of privacy, whether or not that portion of the body is
387 covered with clothing;

388 (b) without the knowledge or consent of the individual; and

389 (c) under circumstances in which the individual has a reasonable expectation of
390 privacy.

391 (2) A violation of Subsection (1) is a class A misdemeanor, except that a violation of
392 Subsection (1) committed against a child under 14 years of age is a third degree felony.

393 (3) Distribution or sale of any images, including in print, electronic, magnetic, or
394 digital format, obtained under Subsection (1) by transmission, display, or dissemination is a
395 third degree felony, except that if the violation of this Subsection (3) includes images of a child
396 under 14 years of age, the violation is a second degree felony.

397 (4) A person is guilty of voyeurism who, under circumstances not amounting to a

398 violation of Subsection (1), views or attempts to view an individual, with or without the use of
399 any instrumentality:

400 (a) with the intent of viewing any portion of the individual's body regarding which the
401 individual has a reasonable expectation of privacy, whether or not that portion of the body is
402 covered with clothing;

403 (b) without the knowledge or consent of the individual; and

404 (c) under circumstances in which the individual has a reasonable expectation of
405 privacy.

406 (5) A violation of Subsection (4) is a class B misdemeanor, except that a violation of
407 Subsection (4) committed against a child under 14 years of age is a class A misdemeanor.

408 Section 20. **Repealer.**

409 This bill repeals:

410 Section **63G-18-105, Reporting.**