



2013 SENATE BILL 196

May 23, 2013 – Introduced by Senators PETROWSKI, ERPENBACH, RISSER, GROTHMAN, HANSEN, SCHULTZ and L. TAYLOR, cosponsored by Representatives AUGUST, KESSLER, CRAIG, C. TAYLOR, BALLWEG, BERCEAU, BORN, CZAJA, HEBL, KESTELL, LOUDENBECK, MURPHY, MURTHA, OHNSTAD, A. OTT, POPE, SANFELIPPO, SHANKLAND, SPIROS, THIESFELDT, TITTL and TRANEL. Referred to Committee on Government Operations, Public Works, and Telecommunications.

1 **AN ACT** *to amend* 114.04; and *to create* 175.55, 941.292, 942.10 and 972.113 of
2 the statutes; **relating to:** restricting the use of drones and providing a penalty.

Analysis by the Legislative Reference Bureau

This bill restricts the use of drones. The bill defines a drone as a powered, aerial vehicle that does not carry a human operator, uses aerodynamic vehicle lift, and can fly autonomously or be piloted remotely.

Under the bill, no law enforcement agency may use a drone that is equipped with video or audio recording equipment to collect evidence or information in a criminal investigation without first obtaining a search warrant. The bill allows a law enforcement agency to use a drone without a search warrant if it is necessary to do so for certain emergency purposes, including to locate an escaped prisoner, to aid in a search and rescue mission, or to prevent imminent harm to a person or the imminent destruction of evidence. Under the bill, evidence obtained by a drone in violation of the law is not admissible in a criminal proceeding.

Under the bill, a person who sells, possesses, or uses a weaponized drone is guilty of a Class H felony, and may be fined up to \$10,000, imprisoned for up to six years, or both. The bill prohibits a person, except a law enforcement officer who has a search warrant or is acting for a permissible emergency purpose, from using a drone that is equipped with video or audio recording equipment to photograph, record, or otherwise observe another individual in a place where the individual has a reasonable expectation of privacy. Anyone who does so is guilty of a Class A misdemeanor, and may be fined up to \$10,000, imprisoned for up to nine months, or both.

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Because this bill creates a new crime or revises a penalty for an existing crime, the Joint Review Committee on Criminal Penalties may be requested to prepare a report concerning the proposed penalty and the costs or savings that are likely to result if the bill is enacted.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 114.04 of the statutes is amended to read:

2 **114.04 Flying and landing, limitations.** Flight Subject to s. 175.55, and
3 except as provided in s. 942.10, flight of or in aircraft or spacecraft over the lands and
4 waters of this state is lawful, unless at such a low altitude as to interfere with the
5 then existing use to which the land or water, or the space over the land or water, is
6 put by the owner, or unless so conducted as to be imminently dangerous or damaging
7 to persons or property lawfully on the land or water beneath. The landing of an
8 aircraft or spacecraft on the lands or waters of another, without the person's consent,
9 is unlawful, except in the case of a forced landing. For damages caused by a forced
10 landing, however, the owner or lessee of the aircraft or spacecraft or the aeronaut or
11 astronaut shall be liable, as provided in s. 114.05.

12 **SECTION 2.** 175.55 of the statutes is created to read:

13 **175.55 Use of drones restricted. (1)** In this section:

14 (a) "Drone" means a powered, aerial vehicle that carries or is equipped with a
15 recording device, as defined in s. 943.49 (1) (c), that does not carry a human operator,
16 uses aerodynamic forces to provide vehicle lift, and can fly autonomously or be
17 piloted remotely. A drone may be expendable or recoverable.

18 (b) "Wisconsin law enforcement agency" has the meaning given in s. 165.77 (1)

19 (c) and includes the department of justice and a tribal law enforcement agency.

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1 **(2)** No Wisconsin law enforcement agency may use a drone to gather evidence
2 or other information in a criminal investigation without first obtaining a search
3 warrant under s. 968.12. This subsection does not apply to the use of a drone to assist
4 in an active search and rescue operation, to locate an escaped prisoner, or if a law
5 enforcement officer has reasonable suspicion to believe that the use of a drone is
6 necessary to prevent imminent danger to an individual or to prevent imminent
7 destruction of evidence.

8 **SECTION 3.** 941.292 of the statutes is created to read:

9 **941.292 Possession of a weaponized drone.** **(1)** In this section, “drone”
10 means a powered, aerial vehicle that does not carry a human operator, uses
11 aerodynamic forces to provide vehicle lift, and can fly autonomously or be piloted
12 remotely. A drone may be expendable or recoverable.

13 **(2)** Whoever sells, transports, manufactures, possesses, or operates any
14 weaponized drone is guilty of a Class H felony.

15 **SECTION 4.** 942.10 of the statutes is created to read:

16 **942.10 Use of a drone.** Whoever uses a drone, as defined in s. 175.55 (1) (a),
17 to photograph, record, or otherwise observe another individual in a place where the
18 individual has a reasonable expectation of privacy is guilty of Class A misdemeanor.
19 This section does not apply to a law enforcement officer authorized to use a drone
20 pursuant to s. 175.55 (2).

21 **SECTION 5.** 972.113 of the statutes is created to read:

22 **972.113 Evidence obtained by a drone.** Evidence or information obtained
23 or collected in violation of s. 175.55 is not admissible in evidence in any criminal
24 proceeding.

25

(END)