

State of South Dakota

NINETY-SECOND SESSION
LEGISLATIVE ASSEMBLY, 2017

817Y0334

SENATE BILL NO. 80

Introduced by: Senators Rusch, Bolin, Greenfield (Brock), Haverly, Heinert, Kennedy, Maher, Nesiba, Novstrup, Otten (Ernie), Soholt, Solano, White, Wiik, and Youngberg and Representatives Tieszen, Bartling, Haggar, Hawley, Johns, Lesmeister, Lust, McCleerey, Rasmussen, Ring, Willadsen, and Zikmund

1 FOR AN ACT ENTITLED, An Act to regulate the use of drones under certain conditions and
2 to provide a penalty therefor.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That the code be amended by adding a NEW SECTION to read:

5 For purposes of this Act, the term, drone, means a powered, aerial vehicle that does not carry
6 a human operator, uses aerodynamic forces to provide vehicle lift, and can fly autonomously or
7 be piloted remotely. The vehicle may be expendable or recoverable.

8 Section 2. That the code be amended by adding a NEW SECTION to read:

9 Any operation of a drone in the state shall comply with all applicable federal aviation
10 administration requirements.

11 Section 3. That the code be amended by adding a NEW SECTION to read:

12 Except as provided in section 4 of this Act, flight of a drone over the lands and waters of this
13 state is lawful, unless flying at a low altitude which:

14 (1) Interferes with the existing use of the land or water, or the space over the land or



1 water by the owner; or

2 (2) Is imminently dangerous or damaging to any person or property lawfully on the land
3 or water beneath.

4 Section 4. That the code be amended by adding a NEW SECTION to read:

5 No person may operate a drone over the grounds of a prison, correctional facility, jail,
6 juvenile detention facility, airport, or any military facility unless expressly authorized by the
7 administrator thereof. A violation of this section is a Class 1 misdemeanor.

8 Section 5. That the code be amended by adding a NEW SECTION to read:

9 The landing of a drone on the lands or waters of another, without the owner's consent, is
10 unlawful, except in the case of a forced landing. However, the owner or lessee of the drone is
11 liable for any damages resulting from a forced landing.

12 Section 6. That § 22-21-1 be amended to read:

13 22-21-1. Any person who, except as authorized by law:

14 (1) Trespasses on property with intent to subject anyone to eavesdropping or other
15 surveillance in a private place; ~~or~~

16 (2) Installs in any private place, without the consent of the person or persons entitled to
17 privacy there, any device for observing, photographing, recording, amplifying, or
18 broadcasting sounds or events in such place, or uses any such unauthorized
19 installation; or

20 (3) Uses a drone to photograph, record, or otherwise observe another person in a private
21 place where the person has a reasonable expectation of privacy;

22 is guilty of a Class 1 misdemeanor. ~~Subdivision~~ Subdivisions (2) and (3) shall not apply to law
23 enforcement officers, or to those acting under ~~their~~ the direction of a law enforcement officer,
24 while engaged in the performance of their lawful duties.

1 Section 7. That the code be amended by adding a NEW SECTION to read:

2 Any person who uses a drone to deliver contraband or controlled substances to a state prison
3 or other correctional facility is guilty of a Class 6 felony in addition to the penalty for the
4 principal offense.

5 Section 8. That the code be amended by adding a NEW SECTION to read:

6 Any person who sells, transports, manufactures, possesses, or operates any drone capable
7 of firing a bullet, projectile, or laser or otherwise be used as a weapon or avenue to inflict harm
8 or damage to any person or property is guilty of a Class 5 felony.

9 Section 9. That the code be amended by adding a NEW SECTION to read:

10 No law enforcement agency may use a drone to gather evidence or other information in
11 violation of S.D. Const., Art. VI, § 11. This section does not apply to the use of a drone to assist
12 in an active search and rescue operation, to locate an escaped prisoner, or if a law enforcement
13 officer has reasonable suspicion to believe that the use of a drone is necessary to prevent
14 imminent danger to a person or to prevent imminent destruction of evidence. Evidence or
15 information obtained or collected in violation of this section is not admissible in evidence in any
16 criminal proceeding.