

Senator Wayne A. Harper proposes the following substitute bill:

UNMANNED AIRCRAFT AMENDMENTS

2017 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Wayne A. Harper

House Sponsor: Kay J. Christofferson

LONG TITLE

General Description:

This bill modifies and establishes provisions related to unmanned aircraft.

Highlighted Provisions:

This bill:

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

including:

- data collection, reporting, retention, and use;
- use of an unmanned aircraft for law enforcement operations; and
- use of data obtained by an unmanned aircraft operated by a civilian;
- ▶ establishes certain safety requirements and limitations for the operation of an unmanned aircraft;
- ▶ prohibits use of an unmanned aircraft equipped with a weapon;
- ▶ prohibits a person from:
 - 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



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

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

66 **72-10-109. Certificate of registration of aircraft required -- Exceptions.**

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

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

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

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

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

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

82 **Part 1. General Provisions**

83 ~~[63G-18-101].~~ **72-14-101. Title.**

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

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

87 ~~[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 The following parts do not apply to a person who operates an unmanned aircraft
143 system, including for commercial purposes, pursuant to and in compliance with Federal
144 Aviation Administration regulations, authorization, or exemptions:

145 (1) Title 72, Chapter 14, Part 3, Unlawful Use of Unmanned Aircraft; and

146 (2) Title 72, Chapter 14, Part 4, Safe Use of Unmanned Aircraft.

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

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

149 **72-14-201. Title.**

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

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

152 **72-14-202. Definitions.**

153 As used in this part:

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

155 (2) "Law enforcement agency" means the same as that term is defined in Section
156 53-3-102.

157 (3) "Law enforcement officer" means the same as that term is defined in Section
158 53-13-103.

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

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

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

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

167 ~~[63G-18-103].~~ **72-14-203. Unmanned aircraft system use requirements --**
168 **Exceptions.**

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

171 (a) pursuant to a search warrant;

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

173 (c) in a public location in which a person has no reasonable expectation of privacy; or

174 ~~[(e)]~~ (d) subject to Subsection (2), from a person who is a nongovernment actor[?];

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

176 ~~[(e)]~~ to locate a lost or missing person in an area in which a person has no reasonable
177 expectation of privacy.]

178 (2) A nongovernment actor may ~~[only]~~ disclose to a law enforcement officer or agency
179 data acquired through an unmanned aircraft system [to a law enforcement agency] and a law
180 enforcement officer or agency may only use the data for law enforcement purposes 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 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:

269 **Part 4. Safe Use of Unmanned Aircraft**

270 **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:

273 **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) For purposes of this section, "civil twilight" refers to:

278 (a) a period of time that begins 30 minutes before official sunrise and ends at official
279 sunrise; and

280 (b) a period of time that begins at official sunset and ends 30 minutes after official
281 sunset.

282 (2) An individual that operates an unmanned aircraft system to fly an unmanned
283 aircraft for recreational purposes shall comply with this section and 14 C.F.R. Sec. 101,
284 Subpart E.

285 (3) (a) An individual may not operate an unmanned aircraft for recreational purposes
286 during night.

287 (b) (i) Unless the unmanned aircraft has lighted anti-collision lighting visible for at
288 least three miles, an individual may not operate an unmanned aircraft during periods of civil
289 twilight.

290 (ii) If an unmanned aircraft is equipped with anti-collision lighting as described in
291 Subsection (3)(b)(i), an individual that is operating during civil twilight may reduce the
292 intensity of the anti-collision lighting if the operator determines that, because of operating
293 conditions, it would be in the interest of safety to do so.

294 (4) An individual operating an unmanned aircraft shall:

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

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

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

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

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

301 (b) ensure that the ability described in Subsection (4)(a)(i) is exercised by either:

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

303 (ii) a visual observer.

304 (5) An individual may not operate an unmanned aircraft over a human being unless that

305 human being is:

306 (a) directly participating in the operation of the unmanned aircraft; or

307 (b) located under a covered structure or inside a stationary vehicle that can provide
308 reasonable protection from a falling unmanned aircraft.

309 (6) An individual may not operate an unmanned aircraft in Class B, Class C, or Class
310 D airspace or within the lateral boundaries of the surface area of Class E airspace designated
311 for an airport unless the operator of the unmanned aircraft has prior authorization from Air
312 Traffic Control.

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

315 (8) An individual may not operate an unmanned aircraft in prohibited or restricted
316 areas unless that person has permission from the using or controlling agency, as appropriate.

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

319 (10) An individual may not operate an unmanned aircraft at an altitude that is higher
320 than 400 feet above ground level unless the unmanned aircraft:

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

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

323 (11) (a) An individual who violates this section is liable for any damages that may
324 result from the violation.

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

328 (c) Except as provided in Subsection (11)(d), an individual who violates this section
329 after receiving a written warning for a previous violation of this section is guilty of an
330 infraction.

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

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

335 **76-6-206. Criminal trespass.**

336 (1) As used in this section~~[-,"enter"]~~:

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

338 (b) "Remain unlawfully," as that term relates to an unmanned aircraft, means remaining

339 on or over private property when:

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

341 and

342 (ii) the person operating the unmanned aircraft is not otherwise authorized to fly the

343 unmanned aircraft over the private property or any portion of the private property.

344 (2) A person is guilty of criminal trespass if, under circumstances not amounting to

345 burglary as defined in Section 76-6-202, 76-6-203, or 76-6-204 or a violation of Section

346 76-10-2402 regarding commercial obstruction:

347 (a) the person enters or remains unlawfully on or causes an unmanned aircraft to enter

348 and remain unlawfully over property and:

349 (i) intends to cause annoyance or injury to any person or damage to any property,

350 including the use of graffiti as defined in Section 76-6-107;

351 (ii) intends to commit any crime, other than theft or a felony; or

352 (iii) is reckless as to whether ~~his~~ the person's or unmanned aircraft's presence will

353 cause fear for the safety of another;

354 (b) knowing the person's or unmanned aircraft's entry or presence is unlawful, the

355 person enters or remains on ~~property as~~ or causes an unmanned aircraft to enter or remain

356 unlawfully over property to which notice against entering is given by:

357 (i) personal communication to the ~~actor~~ person by the owner or someone with

358 apparent authority to act for the owner;

359 (ii) fencing or other enclosure obviously designed to exclude intruders; or

360 (iii) posting of signs reasonably likely to come to the attention of intruders; or

361 (c) the person enters a condominium unit in violation of Subsection 57-8-7(8).

362 (3) (a) A violation of Subsection (2)(a) or (b) is a class B misdemeanor unless ~~it was~~

363 the violation is committed in a dwelling, in which event [it] the violation is a class A

364 misdemeanor.

365 (b) A violation of Subsection (2)(c) is an infraction.

366 (4) It is a defense to prosecution under this section that:

- 367 (a) the property was at the time open to the public; and
- 368 (b) the actor complied with all lawful conditions imposed on access to or remaining on
- 369 the property.

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

371 **76-9-402. Privacy violation.**

372 (1) A person is guilty of privacy violation if, except as authorized by law, ~~[he]~~ the

373 person:

374 (a) trespasses on property with intent to subject anyone to eavesdropping or other

375 surveillance in a private place; ~~[or]~~

376 (b) ~~[Installs in any]~~ installs, or uses after unauthorized installation in a private place,

377 without the consent of the person or persons entitled to privacy [there] in the private place, any

378 device for observing, photographing, hearing, recording, amplifying, or broadcasting sounds or

379 events in the ~~[place or uses any such unauthorized installation]~~ private place; or

380 (c) installs or uses outside of a private place ~~[any]~~ a device for observing,

381 photographing, hearing, recording, amplifying, or broadcasting sounds or events originating in

382 the private place which would not ordinarily be audible, visible or comprehensible outside the

383 private place, without the consent of the person or persons entitled to privacy ~~[there]~~ in the

384 private place.

385 (2) Privacy violation is a class B misdemeanor.

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

387 **76-9-702.7. Voyeurism offenses -- Penalties.**

388 (1) A person is guilty of voyeurism who intentionally uses ~~[a camcorder, motion~~

389 ~~picture camera, photographic camera of any type, or other equipment that is concealed or~~

390 ~~disguised to secretly or surreptitiously videotape, film, photograph, record, or view by~~

391 ~~electronic means an individual]~~ any type of technology to secretly or surreptitiously record

392 video of a person:

393 (a) for the purpose of viewing any portion of the individual's body regarding which the

394 individual has a reasonable expectation of privacy, whether or not that portion of the body is

395 covered with clothing;

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

397 (c) under circumstances in which the individual has a reasonable expectation of

398 privacy.

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

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

405 (4) A person is guilty of voyeurism who, under circumstances not amounting to a
406 violation of Subsection (1), views or attempts to view an individual, with or without the use of
407 any instrumentality:

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

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

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

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

416 Section 20. **Repealer.**

417 This bill repeals:

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