

House Bill 779

By: Representatives Tanner of the 9th, Lumsden of the 12th, Watson of the 172nd, Hightower of the 68th, Prince of the 127th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 16 of the Official Code of Georgia Annotated, relating to crimes and
2 offenses, so as to regulate the use of unmanned aircraft systems and images captured by such
3 systems; to provide for definitions; to provide for exceptions; to provide for penalties and a
4 civil right of action; to provide for venue; to amend Code Section 27-3-151 of the Official
5 Code of Georgia Annotated, relating to activity prohibited in the taking of wildlife, so as to
6 regulate the use of unmanned aircraft systems in connection to hunting and fishing; to
7 provide for related matters; to repeal conflicting laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 Title 16 of the Official Code of Georgia Annotated, relating to crimes and offenses, is
11 amended by adding a new article to Chapter 11, relating to offenses against public order and
12 safety, to read as follows:

13 "ARTICLE 6

14 16-11-210.

15 As used in this article, the term:

16 (1) 'Image' means any capturing of sound waves, thermal, infrared, ultraviolet, visible
17 light, or other electromagnetic waves, odor, or other conditions existing on or about real
18 property in this state or an individual located on such property.

19 (2) 'Law enforcement agency' means a governmental unit of one or more persons
20 employed full time or part time by the state, a state agency or department, or a political
21 subdivision for the purposes of preventing and detecting crime and enforcing state laws
22 or local ordinances, employees of which unit are authorized to make arrests for crimes
23 or seize property while acting within the scope of their authority.

24 (3) 'Private place' means a place where there is a reasonable expectation of privacy.

- 25 (4) 'Unmanned aircraft system' means a powered, aerial vehicle that:
 26 (A) Does not carry a human operator and is operated without the possibility of direct
 27 human intervention from within or on the aircraft;
 28 (B) Uses aerodynamic forces to provide vehicle lift;
 29 (C) Can fly autonomously or be piloted remotely; and
 30 (D) Can be expendable or recoverable.
- 31 (5) 'Weapon' means an object, device, or instrument which when used against a person
 32 is likely to, or actually does, result in serious bodily injury or death or any replica, article,
 33 or device having the appearance of such an object, device, or instrument, including, but
 34 not limited to, a destructive device as defined in Code Section 16-7-80, a dangerous
 35 weapon as defined in Code Section 16-11-121, or a hazardous object as defined in Code
 36 Section 20-2-751.
- 37 16-11-211.
- 38 (a) Except as provided in Code Section 16-11-212, it shall be unlawful for any person to:
 39 (1) Use an unmanned aircraft system to capture an image of a private place or an
 40 individual in a private place;
 41 (2) Knowingly use an image in a manner prohibited by Code Section 16-11-212;
 42 (3) Possess an image knowing that it was captured in violation of paragraph (1) of this
 43 subsection; or
 44 (4) Disclose, display, distribute, or otherwise use an image knowing that it was captured
 45 in violation of paragraph (1) of this subsection.
- 46 (b) Any person convicted of a violation of paragraphs (1) through (3) of subsection (a) of
 47 this Code section shall be guilty of a misdemeanor; provided, however, that if such act is
 48 in violation of paragraph (4) of subsection (a) of this Code section, the person convicted
 49 shall be guilty of a misdemeanor of a high and aggravated nature.
- 50 (c)(1) It shall be a defense to a prosecution of violating paragraphs (1) through (3) of
 51 subsection (a) of this Code section if such person destroyed the image as soon as the
 52 person knew that the image was captured in violation of such paragraphs and did not
 53 disclose, display, or distribute such image to a third party.
- 54 (2) It shall be a defense to a prosecution of violating paragraph (4) of subsection (a) of
 55 this Code section if such person:
 56 (A) Destroyed the image as soon as the person knew that the image was captured in
 57 violation of such paragraph; and
 58 (B) Stopped disclosing, displaying, distributing, or otherwise using such image as soon
 59 as the person knew the image was captured in violation of such paragraph.

60 (d) Each violation of this Code section shall constitute a separate offense. A sentence
61 imposed under this Code section may be imposed separately from and consecutive to or
62 concurrent with a sentence for any other offense related to the act or acts establishing the
63 offense under this Code section.

64 16-11-212.

65 It shall be lawful to capture an image using an unmanned aircraft system:

66 (1) As part of an operation, exercise, or mission of any branch of the United States
67 military;

68 (2) If the image is captured by an electric or natural gas utility, or a person that is under
69 contract with, or otherwise acting under the direction or on behalf of, an electric or
70 natural gas utility:

71 (A) For operations and maintenance of utility facilities for the purpose of maintaining
72 utility system reliability and integrity;

73 (B) For inspecting utility facilities to determine repair, maintenance, or replacement
74 needs during and after construction of such facilities;

75 (C) For assessing vegetation growth for the purpose of maintaining clearances on
76 utility easements; or

77 (D) For utility facility routing and siting for the purpose of providing utility service;

78 (3) With the consent of the individual who owns or lawfully occupies the real property
79 captured in the image;

80 (4) For law enforcement purposes, as permitted by Code Section 16-11-215;

81 (5) If the image is captured by the state or any political subdivision of this state, or a
82 person that is under contract with, or otherwise acting under the direction or on behalf of,
83 the state or any political subdivision of this state, for the purpose of:

84 (A) Surveying the scene of a catastrophe or other damage to determine whether a state
85 of emergency should be declared;

86 (B) Preserving public safety, protecting property, or surveying damage or
87 contamination during a lawfully declared state of emergency;

88 (C) Conducting routine air quality sampling and monitoring, as provided by state or
89 local law; or

90 (D) Mapping;

91 (6) At the scene of a spill, or a suspected spill, of hazardous materials;

92 (7) For the purpose of fire suppression;

93 (8) For the purpose of rescuing an individual whose life or well-being is in imminent
94 danger;

95 (9) For the purpose of the marketing, sale, financing, or insuring of real property,
 96 provided that no individual is identifiable in the image and that, if the image captures real
 97 property not owned by the person creating such image, consent was given or the real
 98 property image captured was incidental to the capturing of the image for which consent
 99 was given;

100 (10) If the image is captured by the owner or operator of an oil, gas, water, or other
 101 pipeline, or a person that is under contract with, or otherwise acting under the direction
 102 or on behalf of, such owner or operator, for the purpose of inspecting, maintaining, or
 103 repairing pipelines or other related facilities or for the purpose of safety and protection,
 104 and such image is captured without the intent to conduct surveillance on an individual or
 105 real property located in this state;

106 (11) If the image is captured by the owner or operator of a port authority, or a person that
 107 is under contract with, or otherwise acting under the direction or on behalf of, such owner
 108 or operator, in connection with port authority surveillance and security; or

109 (12) If the image is captured by a state or local government agency, or by a person that
 110 is under contract with, or otherwise acting under the direction or on behalf of, such
 111 agency, it shall be handled in the same manner as provided in Code Section 16-11-215
 112 and shall not be used for any purpose other than the lawful purpose for which the image
 113 was captured as permitted by this Code section.

114 16-11-213.

115 Except to provide proof of a violation of this article or another law, an image captured in
 116 violation of Code Section 16-11-212 shall not be:

117 (1) Used as evidence in any criminal or juvenile proceeding, civil action, or
 118 administrative proceeding;

119 (2) Subject to disclosure, inspection, or copying under Article 4 of Chapter 18 of Title
 120 50; and

121 (3) Subject to discovery, subpoena, or other means of legal compulsion for its release.

122 16-11-214.

123 It shall be unlawful to sell, transport, manufacture, possess, or operate an unmanned aircraft
 124 system that is equipped with a weapon. Any person that violates this Code section shall
 125 be guilty of a felony and upon conviction shall be punished by imprisonment for not less
 126 than one nor more than three years or by a fine not to exceed \$100,000.00, or both.

127 16-11-215.

128 (a) Except as provided in subsection (b) of this Code section, no law enforcement agency
129 shall use an unmanned aircraft system to gather evidence or other information in a private
130 place or of an individual in a private place.

131 (b) This Code section shall not prohibit the use of an unmanned aircraft system:

132 (1) If the law enforcement agency first obtains a search warrant signed by a judge
133 authorizing the use of an unmanned aircraft system;

134 (2) If the law enforcement agency possesses reasonable suspicion that, under particular
135 circumstances, swift action is needed to prevent imminent danger to life;

136 (3) To provide continuous aerial coverage when law enforcement is searching for a
137 fugitive or escapee or is monitoring a hostage situation; or

138 (4) To provide more expansive aerial coverage when deployed for the purpose of
139 searching for a missing person.

140 (c) An aggrieved party may initiate a civil action against a law enforcement agency to
141 obtain all appropriate relief, as determined by the court, in order to prevent or remedy a
142 violation of this Code section.

143 (d) No data collected on a person, home, or areas other than the target that justified
144 deployment of an unmanned aircraft system may be used, copied, or disclosed for any
145 purpose. Notwithstanding Article 4 of Chapter 18 of Title 50 or any state or local retention
146 policy, such data shall be deleted as soon as possible, and in no event later than 24 hours
147 after collection.

148 (e)(1) The use of an unmanned aircraft system to gather evidence or information shall
149 constitute a search. Any law enforcement agency that uses an unmanned aircraft system,
150 or other substantially similar device to gather evidence or obtain information, shall
151 comply in all respects with the Fourth Amendment to the Constitution of the United
152 States and the Constitution of Georgia.

153 (2) Absent exigent circumstances or another authorized exception to the search warrant
154 requirement, evidence obtained or collected in violation of this Code section shall not be
155 admissible as evidence in a criminal prosecution in any court of law in this state.

156 16-11-216.

157 (a) Unless authorized by the owner of the real property, it shall be unlawful to take off
158 from or recover a drone from private or public property.

159 (b) Unless a venue operator or owner has given written consent, it shall be unlawful to fly
160 an unmanned aircraft system at an open-air event venue wherein more than 100 individuals
161 could gather for such event.

- 162 (c) It shall be unlawful to fly an unmanned aircraft system on or over a public street, road,
 163 or highway in this state, including any easement or right of way connected to such street,
 164 road, or highway, in such a manner so as to interfere with or cause a hazard to a motorist.
 165 (d) It shall be unlawful to use an unmanned aircraft system for the purpose of harassing,
 166 threatening, or intimidating another person.
 167 (e) Any person convicted of a violation of this Code section shall be guilty of a
 168 misdemeanor.

169 16-11-217.

170 For the purpose of venue under this article, any violation of this article shall be considered
 171 to have been committed in any county:

- 172 (1) In which any act was performed in furtherance of the violation;
 173 (2) In which an image was captured in violation of this article;
 174 (3) In which an image was possessed in violation of this article;
 175 (4) From which, to which, or through which an image was captured or transmitted; or
 176 (5) From which, to which, or through which an unmanned aircraft system was flown or
 177 controlled."

178 **SECTION 2.**

179 Said title is further amended by adding a new Code section to read as follows:

180 "16-10-24.5.

181 (a) As used in this Code section, the term:

- 182 (1) 'Emergency medical professional' shall have the same meaning as set forth in Code
 183 Section 16-10-24.2.
 184 (2) 'Emergency medical technician' shall have the same meaning as set forth in Code
 185 Section 16-10-24.2.
 186 (3) 'Firefighter' shall have the same meaning as set forth in Code Section 16-10-24.1.
 187 (4) 'Park ranger' shall have the same meaning as set forth in Code Section 16-10-24.4.
 188 (5) 'Unmanned aircraft system' shall have the same meaning as set forth in Code Section
 189 16-11-210.

190 (b) A person that knowingly and willfully obstructs or hinders any law enforcement
 191 officer, firefighter, or park ranger in the lawful discharge of his or her official duties by the
 192 use of an unmanned aircraft system, or who knowingly and willfully obstructs or hinders
 193 any emergency medical technician, emergency medical professional, or properly identified
 194 person working under the direction of an emergency medical professional in the lawful
 195 discharge of the official duties of such emergency medical technician, emergency medical
 196 professional, or properly identified person working under the direction of an emergency

197 medical professional, by the use of an unmanned aircraft system, shall be guilty of a
 198 misdemeanor."

199 **SECTION 3.**

200 Said title is further amended by revising Code Section 16-11-69, relating to penalties for
 201 violation of laws relating to wiretapping, eavesdropping, and surveillance, as follows:

202 "16-11-69.

203 Except as otherwise provided in subsection ~~(d)~~ (e) of Code Section 16-11-66.1 or Article
 204 6 of this chapter, any person violating any of the provisions of this part shall be guilty of
 205 a felony and, upon conviction thereof, shall be punished by imprisonment for not less than
 206 one nor more than five years or a fine not to exceed \$10,000.00, or both."

207 **SECTION 4.**

208 Code Section 27-3-151 of the Official Code of Georgia Annotated, relating to activity
 209 prohibited in the taking of wildlife, is amended by revising subsection (a) as follows:

210 "(a) It shall be unlawful for any person to:

211 (1) Interfere with the lawful taking of wildlife by another person by intentionally
 212 preventing or attempting to prevent such person from such lawful taking of wildlife or
 213 using an unmanned aircraft system, as such term is defined in Code Section 16-11-210,
 214 to interfere with or prevent such person from such lawful taking of wildlife;

215 (2) Disturb or engage in activity tending to disturb wildlife for the purpose of
 216 intentionally preventing or attempting to prevent the lawful taking of such wildlife; ~~or~~

217 (3) Use an unmanned aircraft system, as such term is defined in Code Section 16-11-210,
 218 to assist in the taking of wildlife; or

219 ~~(3)(4)~~ (4) Fail to obey an order of a law enforcement officer to desist from conduct violating
 220 ~~paragraph (1) or (2)~~ paragraphs (1) through (3) of this subsection if the law enforcement
 221 officer observes such conduct or if the law enforcement officer has reasonable grounds
 222 for believing that the person has engaged in such conduct that day or that the person plans
 223 or intends to engage in such conduct that day at a specific location."

224 **SECTION 5.**

225 All laws and parts of laws in conflict with this Act are repealed.