

House Bill 1230 (COMMITTEE SUBSTITUTE)

By: Representatives Jones of the 25th, Thomas of the 21st, Crowe of the 118th, Hitchens of the 161st, and Lumsden of the 12th

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 1 of Chapter 5 of Title 42 of the Official Code of Georgia Annotated,
2 relating to general provisions regarding correctional institutions of state and counties, so as
3 to prohibit operation of an unmanned aircraft system above a place of incarceration; to
4 provide a definition; to provide for the ability of law enforcement to seize or destroy an
5 unmanned aircraft system that is operating above a place of incarceration; to provide for law
6 enforcement officers to take reasonable and necessary mitigation measures against unmanned
7 aircraft systems operating above a place of incarceration; to amend Chapter 1 of Title 6 of
8 the Official Code of Georgia Annotated, relating to general provisions regarding aviation,
9 so as to make conforming changes to exemptions; to provide for criminal penalties; to
10 provide for exceptions; to revise a definition; to provide for related matters; to repeal
11 conflicting laws; and for other purposes.

12 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

13 **SECTION 1.**

14 Article 1 of Chapter 5 of Title 42 of the Official Code of Georgia Annotated, relating to
15 general provisions regarding correctional institutions of state and counties, is amended by
16 revising subsections (a) and (f) of Code Section 42-5-18, relating to items prohibited for

H. B. 1230 (SUB)

17 possession by inmates, warden's authorization, penalty, and use of unmanned aircraft to
 18 accomplish violations, as follows:

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

20 (1) 'Inmate' means a prisoner, detainee, criminal suspect, immigration detainee, or other
 21 person held, incarcerated, or detained in a place of incarceration, whether or not such
 22 person is inside or outside of such place of incarceration.

23 (2) 'Place of incarceration' means any prison, probation detention center, jail, or
 24 institution, including any state, federal, local, or privately operated facility, used for the
 25 purpose of incarcerating criminals or detainees.

26 (3) 'Telecommunications device' means a device, an apparatus associated with a device,
 27 or a component of a device that enables, or may be used to enable, communication with
 28 a person outside a place of incarceration, including a telephone, cellular telephone,
 29 personal digital assistant, transmitting radio, or computer connected or capable of being
 30 connected to a computer network, by wireless or other technology, or otherwise capable
 31 of communicating with a person or device outside of a place of incarceration.

32 (4) 'Unmanned aircraft system' shall have the same meaning as set forth in Code
 33 Section 6-1-4.

34 ~~(4)~~(5) 'Warden or superintendent' means the commissioner or any warden,
 35 superintendent, sheriff, chief jailer, or other person who is responsible for the overall
 36 management and operation of a place of incarceration."

37 "(f)(1) It shall be unlawful for any person to knowingly and intentionally use operate, or
 38 allow another to operate from his or her property, an unmanned aircraft system to violate
 39 the provisions of subsection (b) or (b.1) of this Code section.:

40 ~~(2)(A) To violate the provisions of subsection (b) or (b.1) of this Code section~~ It shall
 41 ~~be unlawful for any person to intentionally photograph or otherwise record images of~~
 42 ~~a place of incarceration through the use of an unmanned aircraft system for the~~
 43 ~~purposes of committing a criminal offense;~~

44 (B) To photograph or record images or videos of a place of incarceration for purposes
45 of committing a criminal offense; Any person may secure prior authorization from the
46 warden or the superintendent, or his or her designated representative, of such place of
47 incarceration for photographing or recording as evidence of a noncriminal intent;
48 provided, however, that failure to secure such prior authorization shall not evidence a
49 criminal intent

50 (C) Above a place of incarceration; or

51 (D) Above a place of incarceration from his or her property.

52 (2) Prior authorization from the warden or the superintendent, or his or her designated
53 representative, to photograph or record a place of incarceration with an unmanned aircraft
54 system may serve as evidence of a noncriminal intent; provided, however, that failure to
55 secure such prior authorization shall not evidence a criminal intent.

56 (3) Any person who commits or attempts to commit a violation of this subsection shall
57 be guilty of a felony and, upon conviction thereof, shall be sentenced as follows:

58 (A) Any person convicted of a violation subparagraph (A) of paragraph (1) of this
59 subsection shall be imprisoned for not less than one nor more than ten years; and

60 (B) Any person convicted of a violation of subparagraph (B) or (C) paragraph (2) (1)
61 of this subsection shall be imprisoned for not less than five nor more than ten years.

62 (4) Unmanned aircraft systems operated in violation of this subsection are declared to
63 be contraband and may be seized, taken, removed, or destroyed or disposed of by law
64 enforcement at the expense of the owner thereof For purposes of this Code section, the
65 term 'unmanned aircraft system' shall have the same meaning as provided for in Code
66 Section 6-1-4.

67 (5) A law enforcement officer or agency may take reasonable and necessary mitigation
68 measures against an unmanned aircraft system operating over of a place of incarceration
69 for the purposes of committing a criminal offense. Such measures may include, but shall
70 not be limited to:

- 71 (A) The use of methods which detect, track, and identify unmanned aircraft systems;
 72 or
 73 (B) Intercepting, disabling, neutralizing, or disrupting an unmanned aircraft system
 74 through the use of legal and safe methods including, but not limited to, jamming,
 75 hacking, or physical capture.
- 76 (6) A law enforcement officer or agency shall act pursuant to this subsection only if there
 77 is reasonable suspicion that the unmanned aircraft system operating above a place of
 78 incarceration is involved in criminal activity, poses an imminent threat to public safety,
 79 or is otherwise in violation of state or federal law.
- 80 (7) Provisions of this subsection shall not apply to:
- 81 (A) The operation of an unmanned aircraft system by an operator who is in compliance
 82 with federal regulations or who is a peace officer operating such system for a law
 83 enforcement or public safety purpose; or
- 84 (B) An employee of a water, sewer, electrical, telephone, cable, or other regulated
 85 utility service who is acting within the scope of such employment."

86 SECTION 2.

87 Chapter 1 of Title 6 of the Official Code of Georgia Annotated, relating to general provisions
 88 regarding aviation, is amended by revising Code Section 6-1-4, relating to regulation of the
 89 testing or operation of unmanned aircraft system, preemption, unauthorized operation at
 90 ticketed entertainment event, penalty, and exemptions, as follows:

91 "6-1-4.

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

93 (1) 'Ticketed entertainment event' means any music, sporting, or performing arts event
 94 held in a location with gated entries or barriers that prevent access to the general public
 95 and in which a revocable license that has been issued by an owner, operator, or lessee of
 96 such property is required for attendance at such event.

97 (2)(A) 'Unmanned aircraft system' means:

98 ~~(A) A~~ a powered, aerial vehicle that:

99 (i) Does not carry a human operator and is operated without the possibility of direct
100 human intervention from within or on the aircraft;

101 (ii) Uses aerodynamic forces to provide vehicle lift;

102 (iii) Can fly autonomously or be piloted remotely; and

103 (iv) Can be expendable or recoverable;~~and.~~

104 (B) Such term shall not include a satellite.

105 (b) Any ordinance, resolution, regulation, or policy of any ~~county, municipality, or other~~
106 ~~political subdivision of this state~~ local government entity regulating the testing or operation
107 of unmanned aircraft systems shall be deemed preempted and shall be null, void, and of no
108 force and effect; provided, however, that a ~~county, municipality, or other political~~
109 ~~subdivision of this state~~ local government unit entity may:

110 (1) Enforce any ordinance that was adopted on or before April 1, 2017;

111 (2) Adopt an ordinance that enforces Federal Aviation Administration restrictions; or

112 (3) Adopt an ordinance that provides for or prohibits the launch or intentional landing
113 of an unmanned aircraft system from or on its public property except with respect to the
114 operation of an unmanned aircraft system for commercial purposes.

115 (c) The state, through agency or departmental rules and regulations, may provide for or
116 prohibit the launch or intentional landing of an unmanned aircraft system from or on its
117 public property.

118 (d)(1) It shall be unlawful to operate an unmanned aircraft system within 400 feet of or
119 above a ticketed entertainment event.

120 (2) A person who violates this subsection shall be guilty of the unauthorized operation
121 of an unmanned aircraft system and shall be punished as for a misdemeanor.

122 (3) This subsection shall not apply ~~when to~~ to a person ~~who operates~~ operating an
123 unmanned aircraft system within 400 feet or above a ticketed entertainment event who:

- 124 (A) Has obtained consent by any person with legal authority over a ticketed
125 entertainment event;
- 126 (B) Is authorized by federal regulations to operate an unmanned aircraft system and is
127 operating such system in a lawful manner and consistent with federal regulations;
- 128 (C) Is an employee of the property where the ticketed entertainment event is held and
129 is conducting official business;
- 130 (D) Is an employee of a water, sewer, electrical, telephone, cable, or other regulated
131 utility service provider and is conducting official business within the scope of such
132 employment; or
- 133 (E) Is an owner of private property who is operating an unmanned aircraft system that
134 he or she owns above such property, provided that such operation is consistent with
135 federal regulations and is not used for commercial purposes, to convey or communicate
136 a message, or to record for purposes of commercial broadcasting or publication,
137 monitor, or otherwise interfere in any way with a ticketed entertainment event."

138 **SECTION 3.**

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