

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1346 Session of 2017

INTRODUCED BY PYLE, ROZZI, PICKETT, SOLOMON, MARSHALL, BERNSTINE, RYAN, CAUSER, SCHLOSSBERG, MILLARD, D. COSTA, O'NEILL, READSHAW, B. MILLER, WARD, JAMES, IRVIN, GROVE, OBERLANDER, KNOWLES, WATSON, C. QUINN, JOZWIAK, KAUFFMAN, COOK, WHEELAND AND GILLEN, MAY 8, 2017

AS REPORTED FROM COMMITTEE ON JUDICIARY, HOUSE OF REPRESENTATIVES, AS AMENDED, JUNE 28, 2017

AN ACT

1 Amending Titles 18 (Crimes and Offenses) and 53 (Municipalities  
2 Generally) of the Pennsylvania Consolidated Statutes, in  
3 burglary and other criminal intrusion, defining the offense  
4 of unlawful use of unmanned aircraft; and, in preemptions,  
5 prohibiting local regulation of unmanned aircraft.

6 The General Assembly of the Commonwealth of Pennsylvania  
7 hereby enacts as follows:

8 Section 1. Title 18 of the Pennsylvania Consolidated  
9 Statutes is amended by adding a section to read:

10 § 3505. Unlawful use of unmanned aircraft.

11 (a) Offense defined.--A person commits the offense of  
12 unlawful use of unmanned aircraft if the person intentionally or<--  
13 knowingly uses an unmanned aircraft INTENTIONALLY OR KNOWINGLY <--

14 TO:

15 (1) To conduct CONDUCT surveillance of another person in<--  
16 a private place.

17 (2) To operate OPERATE in a manner which places another <--

1 person in reasonable fear of bodily injury.

2 (3) ~~To deliver~~ DELIVER, provide, transmit or furnish <--  
3 contraband in violation of section 5123 (relating to  
4 contraband) or 61 Pa.C.S. § 5902 (relating to contraband  
5 prohibited).

6 (b) ~~Separate violations. A separate violation under~~ <--  
7 subsection (a) (1) or (2) shall occur:

8 (1) ~~for each victim of an offense under subsection (a)~~  
9 ~~(1) or (2) under the same or similar circumstances pursuant~~  
10 ~~to one scheme or course of conduct, whether at the same or a~~  
11 ~~different time; or~~

12 (2) ~~if a person is a victim of an offense under~~  
13 ~~subsection (a) (1) or (2) on more than one occasion during a~~  
14 ~~separate course of conduct, either individually or otherwise.~~

15 (c) ~~Penalties.~~

16 (1) ~~A violation of subsection (a) (1) or (2) is a~~  
17 ~~misdemeanor of the third degree if there is more than one~~  
18 ~~violation. Otherwise, a violation of subsection (a) (1) or (2)~~  
19 ~~is a summary offense.~~

20 (2) ~~An offense under subsection (a) (3) shall be graded~~  
21 ~~as a felony of the second degree.~~

22 (B) GRADING.--THE OFFENSE OF UNLAWFUL USE OF UNMANNED <--  
23 AIRCRAFT SHALL BE GRADED AS FOLLOWS:

24 (1) AN OFFENSE UNDER SUBSECTION (A) (1) OR (2) IS A  
25 SUMMARY OFFENSE PUNISHABLE BY A FINE OF UP TO \$300.

26 (2) AN OFFENSE UNDER SUBSECTION (A) (3) IS A FELONY OF  
27 THE SECOND DEGREE.

28 (d) (C) ~~Exceptions for law enforcement officers.--Subsection~~ <--  
29 (a) shall not apply if the conduct proscribed under subsection  
30 (a) is committed by any of the following:

1       (1) Law enforcement officers engaged in the performance  
2 of their official law enforcement duties.

3       (2) Personnel of the Department of Corrections, local  
4 correctional facility, prison or jail for security purposes <--  
5 or during investigation of alleged misconduct by a person in  
6 the custody of the Department of Corrections, local  
7 correctional facility, prison or jail ENGAGED IN THE <--  
8 PERFORMANCE OF THEIR OFFICIAL DUTIES.

9       ~~(e)~~ (D) Other exceptions.--Subsection (a)(1) and (2) shall <--  
10 not apply if the conduct proscribed under subsection (a)(1) or  
11 (2) is committed by any of the following:

12       (1) Firefighters, as defined in section 2 of the act of  
13 December 16, 1998 (P.L.980, No.129), known as the Police  
14 Officer, Firefighter, Correction Employee and National Guard  
15 Member Child Beneficiary Education Act, or special fire  
16 police, as provided for in 35 Pa.C.S. Ch. 74 Subch. D  
17 (relating to special fire police), engaged in the performance  
18 of their official firefighting or fire police duties.

19       (2) Emergency medical responders, as defined in 35  
20 Pa.C.S. § 8103 (relating to definitions), engaged in the  
21 performance of their official duties.

22       (3) An employee or agent of an electric, water, natural  
23 gas or other utility while engaged in the performance of the  
24 employee's or agent's official duties.

25       ~~(4)~~ A person engaged in aerial data collection if the <--  
26 unmanned aircraft is authorized by an exemption that is  
27 issued by the Federal Aviation Administration or is used in  
28 compliance with regulations promulgated by the Federal  
29 Aviation Administration.

30       ~~(5)~~ (4) An employee or agent of a government agency <--

1 while engaged in the performance of the employee's or agent's  
2 official duties.

3 (E) AERIAL DATA COLLECTION.--SUBSECTION (A) (1) SHALL NOT <--  
4 APPLY IF THE CONDUCT PROSCRIBED IS COMMITTED BY A PERSON ENGAGED  
5 IN AERIAL DATA COLLECTION IF:

6 (1) THE PERSON UTILIZED THE UNMANNED AIRCRAFT IN A  
7 MANNER WHICH COMPLIES WITH FEDERAL AVIATION ADMINISTRATION  
8 REGULATIONS OR THE UNMANNED AIRCRAFT IS AUTHORIZED BY AN  
9 EXEMPTION THAT IS ISSUED BY THE FEDERAL AVIATION  
10 ADMINISTRATION; AND

11 (2) THE PERSON DID NOT KNOWINGLY OR INTENTIONALLY  
12 CONDUCT SURVEILLANCE OF ANOTHER PERSON IN A PRIVATE PLACE.

13 (f) Definitions.--As used in this section, the following  
14 words and phrases shall have the meanings given to them in this  
15 subsection unless the context clearly indicates otherwise:

16 "Bodily injury." As defined in section 2301 (relating to  
17 definitions).

18 "Law enforcement officer." An officer of the United States,  
19 of another state or subdivision thereof, or of the Commonwealth  
20 or political subdivision thereof, who is empowered by law to  
21 conduct investigations of or to make arrests for offenses  
22 enumerated in this title or an equivalent crime in another  
23 jurisdiction and an attorney authorized by law to prosecute or  
24 participate in the prosecution of the offense.

25 "Private place." A place where a person has a reasonable  
26 expectation of privacy.

27 "Surveillance." Using or causing to be used an unmanned  
28 aircraft to enter or remain on or above the land of another in <--  
29 order to observe, record or invade the privacy of another.

30 "Unmanned aircraft." An aircraft that is operated without

1 the possibility of direct human intervention from within or on  
2 the aircraft.

3 Section 2. Title 53 is amended by adding a section to read:  
4 § 305. Local regulation of unmanned aircraft prohibited.

5 (a) Preemption.--The provisions of 18 Pa.C.S. § 3505  
6 (relating to unlawful use of unmanned aircraft) shall preempt  
7 and supersede any ordinance, resolution, rule or other enactment  
8 of a municipality regulating the ownership or operation of  
9 unmanned aircraft. As of the effective date of this section, a  
10 municipality shall not regulate the ownership or operation of  
11 unmanned aircraft unless expressly authorized by statute.

12 (b) Municipal use.--Nothing under 18 Pa.C.S. § 3505 shall  
13 prohibit a municipality from using unmanned aircraft within the  
14 boundaries of the municipality for municipal purposes and  
15 regulating that use.

16 (c) Definition.--As used in this section, the term  
17 "municipality" shall include a county, city, borough,  
18 incorporated town or township or home rule, optional plan or  
19 optional charter municipality, any other general purpose unit of  
20 government established by the General Assembly, a municipal  
21 authority and any entity formed pursuant to Ch. 23 Subch. A  
22 (relating to intergovernmental cooperation).

23 Section 3. This act shall take effect in 90 days.