

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1323 Session of 2015

INTRODUCED BY ARGALL, RESCHENTHALER, FOLMER, VULAKOVICH AND BARTOLOTTA, JUNE 17, 2016

SENATOR GREENLEAF, JUDICIARY, AS AMENDED, SEPTEMBER 26, 2016

AN ACT

1 Amending Titles 18 (Crimes and Offenses) and 42 (Judiciary and
2 Judicial Procedure) of the Pennsylvania Consolidated
3 Statutes, in riot, disorderly conduct and related offenses,
4 further providing for the offense of disorderly conduct and
5 providing for unlawful use of unmanned aircraft; and, in
6 particular rights and immunities, providing for action
7 against operator of unmanned aircraft.

8 The General Assembly of the Commonwealth of Pennsylvania
9 hereby enacts as follows:

10 Section 1. Section 5503 of Title 18 of the Pennsylvania
11 Consolidated Statutes is amended to read:

12 § 5503. Disorderly conduct.

13 (a) Offense defined.--A person is guilty of disorderly
14 conduct if, with intent to cause public inconvenience, annoyance
15 or alarm, or recklessly creating a risk thereof, he:

16 (1) engages in fighting or threatening, or in violent or
17 tumultuous behavior;

18 (2) makes unreasonable noise;

19 (3) uses obscene language, or makes an obscene gesture;

20 [or]

1 (4) creates a hazardous or physically offensive
2 condition by any act which serves no legitimate purpose of
3 the actor[.]; or

4 (5) operates an unmanned aircraft in dangerous proximity
5 to another person or another person's property, unless the
6 other person consents to the operation.

7 (b) Grading.--An offense under this section is a misdemeanor
8 of the third degree if the intent of the actor is to cause
9 substantial harm or serious inconvenience, or if he persists in
10 disorderly conduct after reasonable warning or request to
11 desist. Otherwise disorderly conduct is a summary offense.

12 (c) Definition.--[As used in this section the word "public"
13 means affecting] The following words and phrases as used in this
14 section shall have the meaning given to them in this subsection
15 unless the context clearly indicates otherwise:

16 "Public." Affecting or likely to affect persons in a place
17 to which the public or a substantial group has access; among the
18 places included are highways, transport facilities, schools,
19 prisons, apartment houses, places of business or amusement, any
20 neighborhood, or any premises which are open to the public.

21 "Unmanned aircraft." As defined in section 5518 (relating to
22 unlawful use of unmanned aircraft).

23 Section 2. Title 18 is amended by adding a section to read:
24 § 5518. Unlawful use of unmanned aircraft.

25 (a) Offense defined.--A person commits the offense of
26 unlawful use of an unmanned aircraft if the person knowingly
27 uses an unmanned aircraft to conduct surveillance of, gather <--
28 evidence or collect information about or photographically or
29 electronically record a critical facility without the prior
30 written consent of the owner of the critical facility.

1 ~~(b) Grading. An offense under subsection (a) shall be~~
2 ~~graded as follows:~~

3 ~~(1) A misdemeanor of the second degree with a fine not~~
4 ~~exceeding \$5,000 for a first offense.~~

5 ~~(2) A misdemeanor of the first degree with a fine not~~
6 ~~exceeding \$10,000 for a second or subsequent offense.~~

7 USES AN UNMANNED AIRCRAFT:

<--

8 (1) TO CONDUCT SURVEILLANCE OF, GATHER EVIDENCE OR
9 COLLECT INFORMATION ABOUT OR PHOTOGRAPHICALLY OR
10 ELECTRONICALLY RECORD A CRITICAL FACILITY WITHOUT THE PRIOR
11 WRITTEN CONSENT OF THE OWNER OF THE CRITICAL FACILITY; OR

12 (2) TO DELIVER, PROVIDE, TRANSMIT OR FURNISH CONTRABAND
13 THAT VIOLATES SECTION 5123 (RELATING TO CONTRABAND) OR 61
14 PA.C.S. § 5902 (RELATING TO CONTRABAND PROHIBITED).

15 (B) GRADING.--

16 (1) EXCEPT FOR VIOLATIONS OF THIS SECTION AS PROVIDED
17 FOR IN PARAGRAPH (2), AN OFFENSE UNDER SUBSECTION (A) SHALL
18 BE GRADED AS FOLLOWS:

19 (I) A MISDEMEANOR OF THE SECOND DEGREE WITH A FINE
20 NOT EXCEEDING \$5,000 FOR A FIRST OFFENSE.

21 (II) A MISDEMEANOR OF THE FIRST DEGREE WITH A FINE
22 NOT EXCEEDING \$10,000 FOR A SECOND OR SUBSEQUENT OFFENSE.

23 (2) AN OFFENSE UNDER SUBSECTION (A) (2) SHALL BE GRADED
24 AS A FELONY OF THE THIRD DEGREE.

25 (c) Construction.--Nothing in this section shall be
26 construed to prohibit:

27 (1) A person from using an unmanned aircraft to conduct
28 surveillance of, gather evidence or collect information about
29 or photographically or electronically record the person's own
30 property that is:

1 (i) located on the person's own immovable property;

2 or

3 (ii) located on immovable property owned by another
4 person under a valid lease, servitude, right-of-way,
5 right of use, permit, license or other right.

6 (2) A third person retained by the owner of a property
7 described under paragraph (1) to conduct activities described
8 in paragraph (1) from using an unmanned aircraft to conduct
9 the activities described in paragraph (1).

10 (3) An insurance company or a person acting on behalf of
11 an insurance company from using an unmanned aircraft for
12 purposes of underwriting an insurance risk or investigating
13 damage to insured property.

14 (4) A person from using an unmanned aircraft for motion
15 picture, television or similar media production where the
16 activity occurs on or over property owned by another person
17 who consents to the activity.

18 (5) THE OPERATION OF AN UNMANNED AIRCRAFT SYSTEM BY ANY <--
19 PERSON OR ENTITY THAT THE FEDERAL AVIATION ADMINISTRATION HAS
20 AUTHORIZED TO OPERATE AN UNMANNED AIRCRAFT SYSTEM FOR A
21 COMMERCIAL PURPOSE, WHERE THE UNMANNED AIRCRAFT SYSTEM IS
22 OPERATED IN A MANNER THAT COMPLIES WITH THAT AUTHORIZATION.

23 (d) Definitions.--The following words and phrases when used
24 in this section shall have the meanings given to them in this
25 subsection unless the context clearly indicates otherwise:

26 "Critical facility." The term includes:

27 (1) A Federal, State and county correctional facility.

28 (2) A water or wastewater treatment facility and water
29 distribution or conveyance system.

30 (3) A Federal or State military installation.

1 (4) A power generating station plant or substation.

2 (5) A public safety or emergency operation facility.

3 (6) A hospital.

4 (7) A properly marked Federal, State, county or
5 municipal-owned building.

6 (8) A public or private use airport or heliport.

7 (9) A petroleum or alumina refinery.

8 (10) A chemical or rubber manufacturing facility.

9 (11) ~~A nuclear power~~ AN electric generation facility. <--

10 (12) A NATURAL GAS COMPRESSOR STATION. <--

11 (13) A GAS PROCESSING PLANT, INCLUDING A PLANT USED IN
12 THE PROCESSING, TREATMENT OR FRACTIONATION OF NATURAL GAS OR
13 NATURAL GAS LIQUIDS.

14 (14) AN ABOVEGROUND PORTION OF AN OIL, GAS, HAZARDOUS
15 LIQUID OR CHEMICAL PIPELINE THAT IS ENCLOSED BY A FENCE OR
16 OTHER PHYSICAL BARRIER THAT IS OBVIOUSLY DESIGNED TO EXCLUDE
17 INTRUDERS.

18 (15) A FACILITY THAT PRODUCES PRODUCTS FROM ETHYLENE.

19 (16) OIL OR GAS DRILLING AND PRODUCTION FACILITY OR
20 SITE.

21 (17) NATURAL GAS LIQUIDS TERMINAL OR STORAGE FACILITY.

22 (18) LIQUIFIED NATURAL GAS FACILITY.

23 "Unmanned aircraft." An unmanned powered aircraft that does
24 not carry a human operator, is capable of being autonomous or
25 remotely piloted or operated and may be expendable or
26 recoverable. The definition does not include the following:

27 (1) A satellite orbiting the earth.

28 (2) An unmanned powered aircraft used by the Federal
29 Government or a person who is acting pursuant to contract
30 with the Federal Government to conduct surveillance of

1 specific activities.

2 (3) An unmanned powered aircraft used by the State
3 Government or a person who is acting pursuant to contract
4 with the State government to conduct surveillance of specific
5 activities.

6 (4) An unmanned powered aircraft used by a local
7 government law enforcement agency or fire department.

8 Section 3. Title 42 is amended by adding a section to read:

9 § 8320.1. Action against operator of unmanned aircraft.

10 A person who violates 18 Pa.C.S. § 5518 (relating to unlawful
11 use of unmanned aircraft) shall be liable to the owner of the
12 critical facility that is the subject of the violation as
13 follows:

14 (1) Any actual damages sustained as a result of the
15 violation, or \$10,000, whichever is greater.

16 (2) Three times actual damages, or \$10,000, whichever is
17 greater, in a case in which the violation resulted in profit
18 or monetary gain.

19 (3) The costs of an action brought under this section,
20 together with reasonable attorney fees as determined by the
21 court.

22 Section 4. This act shall take effect in 60 days.