SPONSOR: Rep. Mitchell & Sen. Ennis
Rep. Schwartzkopf

HOUSE OF REPRESENTATIVES

148th GENERAL ASSEMBLY

HOUSE BILL NO. 195
AS AMENDED BY
HOUSE AMENDMENT NO. 1
AND
SENATE AMENDMENT NO. 4

AN ACT TO AMEND TITLE 11 OF THE DELAWARE CODE RELATING TO UNMANNED AIRCRAFT SYSTEMS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE (Two-thirds of all members elected to each house thereof concurring therein):

Section 1. Amend Title 11 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 1480. Unlawful use of an unmanned aircraft system; unclassified misdemeanor; class B misdemeanor; class A misdemeanor.

(a) Definitions. – The following terms shall have the following meaning as used in this section.

(1) "unmanned aircraft system" means a powered, aerial vehicle that:

1. Does not carry a human operator;

2. Uses aerodynamic forces to provide vehicle lift;

3. Can fly autonomously or be piloted remotely; and

4. Can be expendable or recoverable.

(2) "Critical infrastructure" means petroleum refineries, petroleum storage facilities, chemical storage facilities, chemical manufacturing facilities, fuel storage facilities, electric substations, power plants, electric generation facilities, military facilities, commercial port and harbor facilities, rail yard facilities, drinking water treatment or storage facilities, correctional facilities, government buildings, and public safety buildings or facilities.

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(3) “First Responder” means federal, state, and local law enforcement officers, fire, and emergency medical services personnel, hazardous materials response team members, 911 dispatchers, or any individual who is responsible for the protection and preservation of life and is directed to respond to an incident that could result in death or serious injury.”

(b) Prohibited Acts - Except as provided in this section, no person shall knowingly operate, direct, or program an unmanned aircraft system to fly:

(1) over any sporting event, concert, automobile race, festival, or other event at which more than 1500 people are in attendance; or

(2) over any critical infrastructure; or

(3) over any incident where first responders are actively engaged in response or air, water, vehicular, ground or specialized transport.

(c) Exemptions – The prohibitions set forth in subsection (b) of this section shall not apply to:

(1) an unmanned aircraft system used for law enforcement purposes; or

(2) an unmanned aircraft system flying over property where written permission has been granted by the property owner or occupier; or

(3) an unmanned aircraft system operated by an institution of higher education for educational purposes in compliance with Federal Aviation Administration regulations; or

(4) an unmanned aircraft system that is being used for a commercial or other purpose if the operator is authorized by the Federal Aviation Administration.

(d) Penalties - Unlawful use of an unmanned aircraft system is an unclassified misdemeanor for a first offense and a class B misdemeanor for a second or subsequent offense, except that in any case where physical injury to a person or damage to property occurs as a result of a violation of this section unlawful use of an unmanned aircraft system is a class A misdemeanor.

(e) Preemption - Only the State may enact a law or take any other action to prohibit, restrict, or regulate the testing or operation of an unmanned aircraft systems in the State. This Section preempts the authority of a county or municipality to prohibit, restrict, or regulate the testing or operating of unmanned aircraft systems and supersedes any existing law or ordinance of a county or municipality that prohibits, restricts, or regulates the testing or operating of unmanned aircraft systems.

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