WEST VIRGINIA CODE CHAPTER 61 ARTICLE 16

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§61-16-1. Definitions.

As used in this article:

(1) "Aircraft" means any device now known or subsequently invented, used, or designed for flight in the air, including, but not limited to, unmanned aerial vehicles;

(2) "Targeted facility" means a critical infrastructure facility, as defined in §61-10-34 of this Code.

(3) "Unmanned aerial vehicles" means an aircraft that is operated without direct human intervention from inside or on the aircraft and includes the crewmember, the associated support equipment, the control station, data links, telemetry, communications, and navigation equipment necessary to operate the unmanned aircraft, including, but not limited to, drones;

(4) "Unmanned aerial vehicle operator" or "operator" means a person exercising control over an unmanned aerial vehicle during flight.

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§61-16-2. Prohibited use of an unmanned aerial vehicle; criminal penalties.

(a) Except as authorized by the provisions of this article, it is unlawful for any person to operate an unmanned aerial vehicle:

(1) To knowingly and intentionally capture or take photographs, images, video, or audio of another person or the private property of another, without the other person's permission, in a manner that would invade the individual's reasonable expectation of privacy, including, but not limited to, capturing, or recording through a window;

(2) To knowingly and intentionally view, follow, or contact another person or the private property of another without the other person's permission in a manner that would invade the individual's reasonable expectation of privacy, including, but not limited to, viewing, following, or contacting through a window;

(3) To knowingly and intentionally harass another person;

(4) To violate a restraining order or similar judicial order;

(5) To act with a willful wanton disregard for the safety of persons or property; or

(6) To knowingly and intentionally operate an unmanned aerial vehicle in a manner that interferes with the official duties of law enforcement personnel or emergency medical personnel.

(b) It is unlawful for any person to operate an unmanned aerial vehicle over the property of a targeted facility to:

(A) intentionally deploy any substance, material, projectile, or object,

(B) to conduct surveillance of, or gather evidence and information about such facility, with the intent to do harm to such facility the public or any person, or

(C) to engage in any attempt to obtain:

(i) business trade secrets, proprietary information, or,

(ii) protected Federal or state information for the operator's own use or profit.

(c) Nothing in this section prohibits a person from operating an unmanned aerial vehicle to conduct surveillance of, gather evidence and information about, or photographically or electronically record the person's own property or immovable property owned by another person under a valid lease, servitude, right-of-way, right of use, permit, license, or other right: *Provided*, That nothing in this section prohibits third persons retained by the owner of immovable property from operating an unmanned aerial vehicle over, or to otherwise conduct surveillance of, gather evidence and information about, or to photographically or

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electronically record the property: *Provided, however*, That nothing in this section prohibits a person from operating an unmanned aerial vehicle in connection with production of a motion picture, television program, or similar production if the operation of the unmanned aerial vehicle is authorized by the property owner.

(d) The provisions of this section do not apply to a law-enforcement agency acting in compliance with the provisions of this article: *Provided*, That a law enforcement agency's operation of an unmanned aerial vehicle for the purpose of surveillance, investigation into crime, or any other purpose related to the enforcement of the criminal laws of this state or those of the United States shall be in accordance with the Fourth Amendment to the United States Constitution and Article III, § 6 of the constitution of this state.

(e) The provisions of this section do not apply to a news organization using a camera-carrying unmanned aerial vehicle at altitudes greater than 400 feet over private property for legitimate newsgathering purposes.

(f) Any person violating the provisions of subsection (a) or (b) of this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than $100 nor more than $1,000 or confined in jail for not more than one year, or both fined and confined.

(g) Any person who equips an unmanned aerial vehicle with any deadly weapon or operates any unmanned aerial vehicle equipped with any deadly weapon, other than for military purposes in an official capacity, is guilty of a felony and, upon conviction thereof, shall be fined not less than $1,000 nor more than $5,000 or imprisoned in a state correctional facility for not less than one nor more than five years, or both fined and imprisoned.

(h) Any person who operates an unmanned aerial vehicle with the intent to cause damage to or disrupt in any way the flight of a manned aircraft is guilty of a felony and, upon conviction thereof, shall be fined not less than $1,000 nor more than $5,000 imprisoned for not less than one nor more than five years, or both fined and imprisoned.

(i) A person that is authorized by the Federal Aviation Administration to operate unmanned aerial vehicles for commercial purposes may operate an unmanned aerial vehicle in this state for such purposes if the unmanned aerial vehicle is operated in a manner consistent with federal law.

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