
SUBSTITUTE HOUSE BILL 2178

State of Washington

63rd Legislature

2014 Regular Session

By House Technology & Economic Development (originally sponsored by Representatives Morris and Morrell)

READ FIRST TIME 01/29/14.

1 AN ACT Relating to unmanned aircraft; adding a new chapter to Title
2 14 RCW; and prescribing penalties.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 NEW SECTION. **Sec. 1.** The legislature finds that technological
5 developments in unmanned aircraft have expanded the vehicles' capacity
6 to be widely deployed in our state and in our communities. The
7 legislature further finds that while the federal aviation
8 administration modernization and reform act of 2012 establishes a
9 regulatory framework for the use of unmanned aircraft by public
10 agencies and commercial entities, the recreational use of certain small
11 unmanned aircraft outside of federally controlled airspace is exempt
12 from federal regulation. The potential for these small unmanned
13 aircraft to be operated in close proximity to human dwellings and
14 activities presents opportunities for widespread recreational use and
15 enjoyment. At the same time, the recreational use of unmanned aircraft
16 in Washington state airspace increases the likelihood of physical
17 trespass onto private property and invasions of personal privacy. The
18 legislature intends to protect personal privacy by prohibiting the use
19 of unmanned aircraft equipped with sensing devices that collect

1 personal information, including images of individuals on private
2 property that could not have been captured without the assistance of
3 the unmanned aircraft.

4 NEW SECTION. **Sec. 2.** The definitions in this section apply
5 throughout this chapter unless the context clearly requires otherwise.

6 (1) "Active sensing device" means a sensing device that is
7 acquiring personal information from its surroundings. A sensing device
8 is not an "active sensing device" when it is capable of acquiring
9 personal information from its surroundings, but this functionality is
10 dormant or has not been activated.

11 (2) "Person" means a natural person.

12 (3) "Personal information" means:

13 (a) Any information that describes, locates, or indexes anything
14 about a person including, but not limited to, his or her social
15 security number, driver's license number, agency-issued identification
16 number, student identification number, real or personal property
17 holdings derived from tax returns, and his or her education, financial
18 transactions, medical history, ancestry, religion, political ideology,
19 or criminal or employment record; or

20 (b) Any image of a person taken from any location in the Washington
21 state airspace, when the person whose image has been captured is on
22 private property, the landowner and tenants with a right to occupy the
23 private property have not consented to the capture of images of their
24 person on the property, and the taking of such an image is in violation
25 of the reasonable expectation of privacy of the person. The
26 legislature finds and declares that except as otherwise required by the
27 first amendment of the United States Constitution, the reasonable
28 expectation of privacy of a person whose image has been captured under
29 the circumstances described in this subsection (3)(b) has been violated
30 when the image could not have been captured from outside the boundaries
31 of the property on which the person is located, from an ordinary
32 vantage point, and without the assistance of the unmanned aircraft.
33 This finding is intended to be in addition to, and not in derogation
34 of, any expectation of privacy established as reasonable by law, or
35 recognized by the courts, including expectations of privacy deemed
36 reasonable under the Constitution of the state of Washington and of the
37 United States.

1 (4)(a) "Sensing device" means a device capable of acquiring
2 personal information from its surroundings through any means including,
3 but not limited to, cameras, thermal detectors, microphones, chemical
4 detectors, radiation gauges, and wireless receivers in any frequency.

5 (b) "Sensing device" does not include equipment, the sole function
6 of which is to provide information directly necessary for safe air
7 navigation or piloting of an unmanned aircraft.

8 (5) "Unmanned aircraft" means an aircraft that is operated without
9 physical human presence on board the aircraft.

10 (6) "Washington state airspace" means all airspace within the
11 territorial limits of this state that is within class G airspace and
12 not otherwise classified as controlled by the federal aviation
13 administration.

14 NEW SECTION. **Sec. 3.** (1) No person may operate in Washington
15 state airspace an unmanned aircraft that is equipped with an active
16 sensing device unless:

17 (a) The federal government has provided specific authorization for
18 the operation; or

19 (b) The operation complies with each of the conditions established
20 in section 4 of this act.

21 (2) For purposes of subsection (1) of this section, "specific
22 authorization" by the federal government includes operation under a
23 certificate of authorization or other authorization issued pursuant to
24 the federal aviation administration modernization and reform act of
25 2012 (49 U.S.C. 40101 Sec. 336), but does not include operation of an
26 unmanned aircraft pursuant to the exemption from regulation for
27 recreational uses established in the special rule for model aircraft of
28 the federal aviation administration modernization and reform act of
29 2012 (49 U.S.C. 40101 Sec. 336).

30 (3) Nothing in this chapter may be construed as authorizing the use
31 of, prohibiting the use of, or regulating in any manner the use of an
32 unmanned aircraft by a public agency.

33 NEW SECTION. **Sec. 4.** Except where specifically authorized by the
34 federal government, an unmanned aircraft that is equipped with an
35 active sensing device may not be operated in Washington state airspace
36 unless the following conditions are met:

1 (1) The unmanned aircraft is clearly and conspicuously labeled with
2 the name and contact information of the aircraft's owner and operator;
3 and

4 (2) The unmanned aircraft does not have an active sensing device
5 onboard that collects personal information about any individual without
6 the individual's consent.

7 NEW SECTION. **Sec. 5.** Any person who violates the requirements of
8 section 4 of this act with the intent to capture any type of personal
9 information of another person for an illicit purpose, including a
10 commercial purpose where the commercial use of the unmanned aircraft is
11 not compliant with the requirements of the federal aviation
12 administration modernization and reform act of 2012 or other applicable
13 law, is guilty of a misdemeanor, in addition to any other penalty
14 provided by law.

15 NEW SECTION. **Sec. 6.** In addition to any other remedies authorized
16 by law, an individual whose reasonable expectation of privacy is
17 violated by the use of an unmanned aircraft equipped with an active
18 sensing device in violation of the requirements of this chapter may
19 bring an action for damages from the person who committed the
20 violation. The person may recover actual damages or liquidated damages
21 of five thousand dollars, whichever is greater, and an award of costs
22 and reasonable attorneys' fees.

23 NEW SECTION. **Sec. 7.** The remedy provided by this chapter does not
24 restrict any remedy that is otherwise available. The provisions of
25 this chapter are not exclusive and are in addition to any other
26 requirements, rights, remedies, and penalties provided by law.

27 NEW SECTION. **Sec. 8.** Sections 1 through 7 of this act constitute
28 a new chapter in Title 14 RCW.

29 NEW SECTION. **Sec. 9.** If any provision of this act or its
30 application to any person or circumstance is held invalid, the
31 remainder of the act or the application of the provision to other

1 persons or circumstances is not affected.

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