

AMENDED IN SENATE MARCH 11, 2015

SENATE BILL

No. 170

Introduced by Senator Gaines

February 5, 2015

An act to ~~amend Section 46 of~~ *add Sections 4577, 4578, and 4579* to the ~~Civil Penal Code, relating to civil law.~~ *unmanned aircraft systems.*

LEGISLATIVE COUNSEL'S DIGEST

SB 170, as amended, Gaines. ~~Personal rights.~~ *Unmanned aircraft systems: correctional facilities.*

Existing federal law, the Federal Aviation Administration Modernization and Reform Act of 2012, provides for the integration of civil unmanned aircraft systems, commonly known as drones, into the national airspace system by September 30, 2015. Existing federal law requires the Administrator of the Federal Aviation Administration to develop and implement operational and certification requirements for the operation of public unmanned aircraft systems in the national airspace system by December 31, 2015.

Existing state law generally prohibits a person from bringing, possessing, distributing, or selling certain devices and substances, including, among other things, alcoholic beverages, controlled substances, and deadly weapons, in state prison or a jail. Existing law also prohibits unauthorized communication with inmates in state prison or a jail. Existing law provides criminal penalties for violations of these provisions.

This bill would make a person who uses an unmanned aircraft system, as defined, to commit a violation of those provisions, guilty of a felony, and would require the imposition of a sentence of one year of imprisonment in addition to any other penalty provided by law.

This bill would make a person who knowingly and intentionally operates an unmanned aircraft system below the navigable airspace overlaying a state prison guilty of a misdemeanor. The bill would also make a person who knowingly and intentionally captures images or data of a state prison through the operation of an unmanned aircraft system guilty of a misdemeanor. The bill would make these misdemeanor provisions inapplicable to a person employed by the prison acting within the scope of his or her employment, or a person who receives prior permission from the Department of Corrections and Rehabilitation. By creating new crimes, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

~~Existing law defines “slander” as a false and unprivileged publication, communicated orally or by radio, mechanical, or other means, which causes specified damages.~~

~~This bill would make technical, nonsubstantive changes to this provision.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 4577 is added to the Penal Code, to read:
- 2 4577. (a) (1) When a person uses an unmanned aircraft system
- 3 to commit a violation of this chapter, the person is guilty of a felony
- 4 and a sentence of one year of imprisonment shall be imposed in
- 5 addition to any other penalty provided by law.
- 6 (2) This subdivision does not apply to a violation of Section
- 7 4578 or 4579.
- 8 (b) For purposes of this chapter, the following definitions apply:
- 9 (1) “Unmanned aircraft” means an aircraft that is operated
- 10 without the possibility of direct human intervention from within
- 11 or on the aircraft.
- 12 (2) “Unmanned aircraft system” means an unmanned aircraft
- 13 and associated elements, including, but not limited to,

1 *communication links and the components that control the*
2 *unmanned aircraft that are required for the pilot in command to*
3 *operate safely and efficiently in the national airspace system.*

4 *SEC. 2. Section 4578 is added to the Penal Code, to read:*

5 *4578. (a) Except as provided in subdivision (b), a person who*
6 *knowingly and intentionally operates an unmanned aircraft system*
7 *below the navigable airspace, as defined in Section 42102 of Title*
8 *49 of the United States Code, overlaying a state prison is guilty*
9 *of a misdemeanor.*

10 *(b) This section does not apply to a person employed by the*
11 *prison who operates the unmanned aircraft system within the scope*
12 *of his or her employment, or a person who receives prior*
13 *permission from the Department of Corrections and Rehabilitation*
14 *to operate the unmanned aircraft system.*

15 *SEC. 3. Section 4579 is added to the Penal Code, to read:*

16 *4579. (a) Except as provided in subdivision (b), a person who*
17 *knowingly and intentionally captures images or data of a state*
18 *prison through the operation of an unmanned aircraft system is*
19 *guilty of a misdemeanor.*

20 *(b) This section does not apply to a person employed by the*
21 *prison who captures images or data of a state prison through the*
22 *operation of an unmanned aircraft system within the scope of his*
23 *or her employment, or a person who receives prior permission*
24 *from the Department of Corrections and Rehabilitation to capture*
25 *images or data of a state prison through the operation of an*
26 *unmanned aircraft system.*

27 *SEC. 4. No reimbursement is required by this act pursuant to*
28 *Section 6 of Article XIII B of the California Constitution because*
29 *the only costs that may be incurred by a local agency or school*
30 *district will be incurred because this act creates a new crime or*
31 *infraction, eliminates a crime or infraction, or changes the penalty*
32 *for a crime or infraction, within the meaning of Section 17556 of*
33 *the Government Code, or changes the definition of a crime within*
34 *the meaning of Section 6 of Article XIII B of the California*
35 *Constitution.*

36 ~~*SECTION 1. Section 46 of the Civil Code is amended to read:*~~

37 ~~*46. Slander is a false and unprivileged publication*~~
38 ~~*communicated orally, or by radio, mechanical, or other means,*~~
39 ~~*which does any of the following:*~~

- 1 ~~(a) Charges a person with a crime, or with having been indicted,~~
- 2 ~~convicted, or punished for a crime.~~
- 3 ~~(b) Imputes in him or her the present existence of an infectious,~~
- 4 ~~contagious, or loathsome disease.~~
- 5 ~~(c) Tends directly to injure him or her in respect to his or her~~
- 6 ~~office, profession, trade or business, either by imputing to him or~~
- 7 ~~her general disqualification in those respects which the office or~~
- 8 ~~other occupation peculiarly requires, or by imputing something~~
- 9 ~~with reference to his or her office, profession, trade, or business~~
- 10 ~~that has a natural tendency to lessen its profits.~~
- 11 ~~(d) Imputes to him or her impotence or a want of chastity.~~
- 12 ~~(e) By natural consequence causes actual damage.~~