

AMENDED IN SENATE APRIL 7, 2015

AMENDED IN SENATE MARCH 11, 2015

SENATE BILL

No. 170

Introduced by Senator Gaines

February 5, 2015

An act to add Sections ~~4577, 4578, and 4579~~ *4577 and 4578* to the Penal Code, relating to unmanned aircraft systems.

LEGISLATIVE COUNSEL'S DIGEST

SB 170, as amended, Gaines. 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~~ *subject to* the imposition of a sentence of one year

of imprisonment *or a doubled fine, as specified*, 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 *or a jail* 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 *or jail* acting within the scope of his or her employment, or a person who receives prior permission from the Department of Corrections and Rehabilitation *or the county sheriff*. 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.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: 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 excluding Section 4575 or 4576~~, a sentence of one year of
- 5 imprisonment shall be imposed in addition to any other penalty
- 6 provided by law.
- 7 (2) *When a person uses an unmanned aircraft system to commit*
- 8 *a violation of Section 4575 or 4576, the maximum or prescribed*
- 9 *amounts of fines for offenses in those sections shall be doubled in*
- 10 *addition to any other penalty provided by law.*
- 11 ~~(2)~~
- 12 (3) This subdivision does not apply to a violation of Section
- 13 4578 or 4579.
- 14 (b) For purposes of this chapter, the following definitions apply:
- 15 (1) “Unmanned aircraft” means an aircraft that is operated
- 16 without the possibility of direct human intervention from within
- 17 or on the aircraft.

1 (2) “Unmanned aircraft system” means an unmanned aircraft
2 and associated elements, including, but not limited to,
3 communication links and the components that control the
4 unmanned aircraft that are required for the pilot in command to
5 operate safely and efficiently in the national airspace system.

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

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

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

17 (c) *This section does not apply to a person employed by the jail*
18 *who operates the unmanned aircraft system within the scope of*
19 *his or her employment, or a person who receives prior permission*
20 *from the county sheriff to operate the unmanned aircraft system*
21 *over the jail.*

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

23 4579. (a) ~~Except as provided in subdivision (b), a person who~~
24 ~~knowingly and intentionally captures images or data of a state~~
25 ~~prison through the operation of an unmanned aircraft system is~~
26 ~~guilty of a misdemeanor.~~

27 (b) ~~This section does not apply to a person employed by the~~
28 ~~prison who captures images or data of a state prison through the~~
29 ~~operation of an unmanned aircraft system within the scope of his~~
30 ~~or her employment, or a person who receives prior permission~~
31 ~~from the Department of Corrections and Rehabilitation to capture~~
32 ~~images or data of a state prison through the operation of an~~
33 ~~unmanned aircraft system.~~

34 SEC. 4.

35 SEC. 3. No reimbursement is required by this act pursuant to
36 Section 6 of Article XIII B of the California Constitution because
37 the only costs that may be incurred by a local agency or school
38 district will be incurred because this act creates a new crime or
39 infraction, eliminates a crime or infraction, or changes the penalty
40 for a crime or infraction, within the meaning of Section 17556 of

- 1 the Government Code, or changes the definition of a crime within
- 2 the meaning of Section 6 of Article XIII B of the California
- 3 Constitution.

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