

AMENDED IN SENATE APRIL 22, 2015  
AMENDED IN SENATE APRIL 7, 2015  
AMENDED IN SENATE MARCH 11, 2015

**SENATE BILL**

**No. 170**

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**Introduced by Senator Gaines**  
*(Coauthor: Senator Anderson)*

February 5, 2015

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An act to add Sections 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 *felony* in violation of those *specified* provisions, 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. *The bill would also require that the use of an unmanned aircraft system in violation of specified provisions be considered a factor in aggravation in sentencing for purposes of a felony conviction under those provisions.*

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 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 *felony* violation of this chapter, ~~excluding Section~~
- 4 ~~4575 or 4576, a sentence of one year of imprisonment shall be~~
- 5 ~~imposed in addition to any other penalty provided by law~~ *the use*
- 6 *of the unmanned aircraft system shall be considered a factor in*
- 7 *aggravation in sentencing.*
- 8 (2) When a person uses an unmanned aircraft system to commit
- 9 a violation of Section 4575 or 4576, the maximum or prescribed
- 10 amounts of fines for offenses in those sections shall be doubled in
- 11 addition to any other penalty provided by law.
- 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:

1 (1) “Unmanned aircraft” means an aircraft that is operated  
2 without the possibility of direct human intervention from within  
3 or on the aircraft.

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

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

10 4578. (a) Except as provided in subdivisions (b) and (c), a  
11 person who knowingly and intentionally operates an unmanned  
12 aircraft system below the navigable airspace, as defined in Section  
13 42102 of Title 49 of the United States Code, overlaying a state  
14 prison or a jail is guilty of a misdemeanor.

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

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

25 SEC. 3. No reimbursement is required by this act pursuant to  
26 Section 6 of Article XIII B of the California Constitution because  
27 the only costs that may be incurred by a local agency or school  
28 district will be incurred because this act creates a new crime or  
29 infraction, eliminates a crime or infraction, or changes the penalty  
30 for a crime or infraction, within the meaning of Section 17556 of  
31 the Government Code, or changes the definition of a crime within  
32 the meaning of Section 6 of Article XIII B of the California  
33 Constitution.