



STATE OF NORTH CAROLINA
DEPARTMENT OF TRANSPORTATION

ROY COOPER
GOVERNOR

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SECRETARY

DATE: December 1, 2017

TO: All Operators or Potential Operators of Unmanned Aircraft Systems (UAS), aka "Drones", in North Carolina

FROM: North Carolina Department of Transportation, Division of Aviation, UAS Program Office

SUBJECT: Summary of North Carolina Regulations concerning Unmanned Aircraft Systems

The following is a summary of the UAS Provisions contained in the North Carolina Statutes as enacted through Session Law 2014-100 which went into effect in 2014 and updated through the enacting of Session Law 2015-232 and Session Law 2016-90 passed by the North Carolina General Assembly and signed into law by the Governor of North Carolina in 2015 and 2016 respectively. Further modifications and additions were made in 2017 with Session Law 2017-160 and 2017-179.

The following chapters of the North Carolina General Statutes were amended or modified through S.L. 2014-100, S.L. 2015-232, S.L. 2016-90, S.L. 2017-160, and/or 2017-179:

- Chapter 15A – Criminal Procedure
 - §15A-300.1 Restrictions on use of UAS
 - §15A-300.2 Regulation of launch and recovery sites
 - §15A-300.3 Use of an unmanned aircraft system near a confinement or correctional facility prohibited
- Chapter 14 – Criminal Law
 - §14-7.45 Crimes committed by use of UAS
 - §14.280.3 Interference with manned aircraft by UAS
 - §14.401.24 Unlawful possession and use of UAS (Weapon attached)
 - §14.401.25 Unlawful distribution of images
- Chapter 113 – Conservation and Development
 - §113-295 Unlawful harassment of persons taking wildlife resources
- Chapter 63 – Aeronautics
 - §63-94 Applicability of Article
 - §63-95 Training required for operations of UAS
 - §63-96 License required for commercial operation of UAS

The sections below are provided word-for-word from the ratified act and represent current NC law as related to UAS operations in NC.

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NCGS Chapter 15A – Criminal Procedure

§ 15A-300.1. Restrictions on use of unmanned aircraft systems.

- (a) Definitions. – The following definitions apply to this Article:
- (1) Manned aircraft. – An aircraft, as defined in G.S. 63-1, that is operated with a person in or on the aircraft.
 - (2) *Removed per Session Law 2017*
 - (3) Unmanned aircraft. – An aircraft, as defined in G.S. 63-1, that is operated without the possibility of human intervention from within or on the aircraft.
 - (4) Unmanned aircraft system. – An unmanned aircraft and associated elements, including communication links and components that control the unmanned aircraft that are required for the pilot in command to operate safely and efficiently in the national airspace system.
- (b) General Prohibitions. – Except as otherwise provided in this section, no person, entity, or State agency shall use an unmanned aircraft system to do any of the following:
- (1) Conduct surveillance of:
 - a. A person or a dwelling occupied by a person and that dwelling's curtilage without the person's consent.
 - b. Private real property without the consent of the owner, easement holder, or lessee of the property.
 - (2) Photograph an individual, without the individual's consent, for the purpose of publishing or otherwise publicly disseminating the photograph. This subdivision shall not apply to newsgathering, newsworthy events, or events or places to which the general public is invited.
- (c) Law Enforcement Exceptions. – Notwithstanding the provisions of subsection (b) of this section, the use of unmanned aircraft systems by law enforcement agencies of the State or a political subdivision of the State is not prohibited in the following instances:
- (1) To counter a high risk of a terrorist attack by a specific individual or organization if the United States Secretary of Homeland Security or the Secretary of the North Carolina Department of Public Safety determines that credible intelligence indicates that such a risk exists.
 - (2) To conduct surveillance in an area that is within a law enforcement officer's plain view when the officer is in a location the officer has a legal right to be.
 - (3) If the law enforcement agency first obtains a search warrant authorizing the use of an unmanned aircraft system.
 - (4) If the law enforcement agency possesses reasonable suspicion that, under particular circumstances, swift action is needed to prevent imminent danger to life or serious damage to property, to forestall the imminent escape of a suspect or the destruction of evidence, to conduct pursuit of an escapee or suspect, or to facilitate the search for a missing person.
 - (5) To photograph gatherings to which the general public is invited on public or private land.
- (c1) Emergency Management Exception. – Notwithstanding the provisions of subsection (b) of this section, an emergency management agency, as defined in G.S. 166A-19.3, may use unmanned aircraft systems for all functions and activities related to emergency management, including incident command, area reconnaissance, search and rescue, preliminary damage assessment, hazard risk management, and floodplain mapping
- (d) *Removed per Session Law 2017-160*
- (e) Any person who is the subject of unwarranted surveillance, or whose photograph is taken in violation of the provisions of this section, shall have a civil cause of action against the person, entity, or State agency that conducts the surveillance or that uses

an unmanned aircraft system to photograph for the purpose of publishing or otherwise disseminating the photograph. In lieu of actual damages, the person whose photograph is taken may elect to recover five thousand dollars (\$5,000) for each photograph or video that is published or otherwise disseminated, as well as reasonable costs and attorneys' fees and injunctive or other relief as determined by the court.

- (f) Evidence obtained or collected in violation of this section is not admissible as evidence in a criminal prosecution in any court of law in this State except when obtained or collected under the objectively reasonable, good-faith belief that the actions were lawful.

§ 15A-300.2. Regulation of launch and recovery sites.

- (a) No unmanned aircraft system may be launched or recovered from any State or private property without consent.
- (b) A unit of local government may adopt an ordinance to regulate the use of the local government's property for the launch or recovery of unmanned aircraft systems.

§15A-300.3 Use of an unmanned aircraft system near a confinement or correctional facility prohibited

- (a) Prohibition – No person, entity, or State agency shall use an unmanned aircraft system within a horizontal distance of 500 feet, or vertical distance of 250 feet from any local confinement facility, as defined in G.S. 153A-217, or State or federal correctional facility. For the purpose of this section, horizontal distance shall extend outward from the furthest exterior building walls, perimeter fences, and permanent fixed perimeter, or from another boundary clearly marked with posted notices. Posted notices shall be conspicuously posted not more than 100 yards apart along a marked boundary and comply with Department of Transportation guidelines.
- (b) Exceptions – Unless the use of the UAS is otherwise prohibited under State or federal law, the distance restrictions of subsection (a) of this section do not apply to any of the following:
 - (1) A person operating an unmanned aircraft system with written consent from the official in responsible charge of the facility
 - (2) A law enforcement officer using an UAS in accordance with G.S. 15A-300.1(c).
 - (3) A public utility, as defined in G.S. 62-3(23), a provider, as defined in G.S. 146-29(a)(6), or a commercial entity, provided that the public utility, provider, or commercial entity complies with all of the following.
 - a. The unmanned aircraft system must not be used within either a horizontal distance of 150 feet, or within a vertical distance of 150 feet from any local confinement facility or State or federal correctional facility.
 - b. Notifies the official in responsible charge of the facility at least 24 hours prior to operation the unmanned aircraft system. A commercial entity operating in compliance with G.S. 15A-300.1 and pursuant to the provisions of this subdivision is exempt from the 24-hour notice requirement.
 - c. Uses the unmanned aircraft system for the purpose of inspecting public utility or provider transmission lines, equipment, or communication infrastructure or for another purpose directly related to the business of the public utility, provider, or commercial entity.
 - d. Uses the unmanned aircraft system for commercial purposes pursuant to and in compliance with (i) Federal Aviation Administration regulations,

authorizations, or exemptions and (ii) Article 10 of Chapter 63 of the General Statutes.

- e. The person operating the unmanned aircraft system does not physically enter the prohibited space without an escort from the facility.
- (4) An emergency management agency, as defined in G.S. 166A-19.3, emergency medical services personnel, firefighters, and law enforcement officers, when using an unmanned aircraft system in response to an emergency.
- (c) Penalty – The following penalties apply for violations of this section:
 - (1) A person who uses an unmanned aircraft system (i) in violation of subsection (a) of this section or (ii) pursuant to an exception in subsection (b) of this section and who delivers, or attempts to deliver, a weapon to a local confinement facility or State or federal correctional facility is guilty of a Class H felony, which shall include a fine of one thousand five hundred dollars (\$1,500). For purposes of this subdivision, the term “weapon” is as defined in G.S. 14-401.24(c).
 - (2) A person who uses an unmanned aircraft system (i) in violation of subsection (a) of this section or (ii) pursuant to an exception in subsection (b) of this section and who delivers, or attempts to deliver contraband to a local confinement facility or State or federal correctional facility is guilty of a Class I felony, which shall include a fine of one thousand dollars (\$1,000). For purposes of this subdivision, the term “contraband” includes controlled substances, as defined in G.S. 90-87, cigarettes, alcohol, and communication devices, but does not include weapons.
 - (3) A person who uses an unmanned aircraft system in violation of subsection (a) of this section for any other purposes is guilty of a Class I misdemeanor, which shall include a fine of five hundred dollars (\$500).
- (d) Seizure, Forfeiture, and Disposition of Seized Property - A law enforcement agency may seize an unmanned aircraft system and any attached property, weapons, and contraband used in violation of this section. An unmanned aircraft system used in violation of this section and seized by a law enforcement agency is subject to forfeiture and disposition pursuant to G.S. 18B-504. An innocent owner or holder of a security interest applying to the court for release of the UAS, in accordance with G.S. 18B-504 (b), shall also provide proof of ownership or security interest and written certification that the unmanned aircraft system will not be returned to the person who was charged with the violation of subsection (a) of this section. The court shall forfeit and dispose of any other property, weapons, or contraband seized by a law enforcement agency in connection with a violation of this section pursuant to G.S. 18B-504, 14-269.1, 90-112, or any combination thereof.

S.L. 2017-179 Section 2 – For the purpose of restricting the operation of an UAS in accordance with Section 1 of this act, the Division of Aviation of the Department of Transportation shall petition the FAA to designate any local confinement facility, as defined in G.S. 153A-217, or State or federal correction facility in the State as a fixed site facility, pursuant to rules and regulations adopted pursuant to section 2209 of the FAA Extension, Safety, and Security Act of 2016, Public Law No. 114-190. The Division shall follow all guidelines from the FAA in submitting and processing the petition. The Division shall publish designations by the FAA in accordance with this act on the Division Web site.

At the request of the Division, the Social Services Commission of the Department of Health and Human Services shall provide to the Division a list of local confinement facilities, as defined in G.S. 153A-217, including facility location and a contact person for each facility. At the request of the Division, the Department of Public Safety shall provide to the Division a list

of Stat correctional facilities, including facility location, a contact person for each facility, and each facility's operational status.

S.L. 2017-179 Section 3 – The Division of Aviation of the Department of Transportation shall develop guidelines for the content and dimensions for posted notices to mar boundaries in accordance with Section 1 of this act.

S.L. 2017-179 Section 4 – This act becomes effective December 1, 2017, and applies to offenses committed on or after that date.

NCGS Chapter 14 – Criminal Law

§ 14-7.45. Crimes committed by use of unmanned aircraft systems.

All crimes committed by use of an unmanned aircraft system, as defined in G.S. 15A- 300.1, while in flight over this State shall be governed by the laws of this State, and the question of whether the conduct by an unmanned aircraft system while in flight over this State constitutes a crime by the owner of the unmanned aircraft system shall be determined by the laws of this State.

§ 14-280.3. Interference with manned aircraft by unmanned aircraft systems.

- (a) Any person who willfully damages, disrupts the operation of, or otherwise interferes with a manned aircraft through use of an unmanned aircraft system, while the manned aircraft is taking off, landing, in flight, or otherwise in motion, is guilty of a Class H felony.
- (b) The following definitions apply to this section:
 - (1) Manned aircraft. – As defined in G.S. 15A-300.1.
 - (2) Unmanned aircraft system. – As defined in G.S. 15A-300.1.

§ 14-401.24. Unlawful possession and use of unmanned aircraft systems.

- (a) It shall be a Class E felony for any person to possess or use an unmanned aircraft or unmanned aircraft system that has a weapon attached.
- (b) It shall be a Class 1 misdemeanor for any person to fish or to hunt using an unmanned aircraft system.
- (c) The following definitions apply to this section:
 - (1) To fish. – As defined in G.S. 113-130.
 - (2) To hunt. – As defined in G.S. 113-130.
 - (3) Unmanned aircraft. – As defined in G.S. 15A-300.1.
 - (4) Unmanned aircraft system. – As defined in G.S. 15A-300.1.
 - (5) Weapon. – Those weapons specified in G.S. 14-269, 14-269.2, 14-284.1, or 14-288.8 and any other object capable of inflicting serious bodily injury or death when used as a weapon.
- (d) This section shall not prohibit possession or usage of an unmanned aircraft or unmanned aircraft system that is authorized by federal law or regulation.

§ 14-401.25. Unlawful distribution of images.

It shall be a Class A1 misdemeanor to publish or disseminate, for any purpose, recorded images taken by a person or non-law enforcement entity through the use of infrared or other similar thermal imaging technology attached to an unmanned aircraft system, as defined in G.S. 15A-300.1, and revealing individuals, materials, or activities inside of a structure without the consent of the property owner.

NCGS Chapter 113 - Conservation and Development

§ 113-295. Unlawful harassment of persons taking wildlife resources.

- (a) It is unlawful for a person to interfere intentionally with the lawful taking of wildlife resources or to drive, harass, or intentionally disturb any wildlife resources for the purpose of disrupting the lawful taking of wildlife resources. It is unlawful to take or abuse property, equipment, or hunting dogs that are being used for the lawful taking of wildlife resources. This subsection does not apply to a person who incidentally interferes with the taking of wildlife resources while using the land for other lawful activity such as agriculture, mining, or recreation. This subsection also does not apply to activity by a person on land he owns or leases.
Violation of this subsection is a Class 2 misdemeanor for a first conviction and a Class 1 misdemeanor for a second or subsequent conviction.
- (a1) It is unlawful to use an unmanned aircraft system, as defined in G.S. 15A-300.1, to violate subsection (a) of this section. Violation of this subsection is a Class 1 misdemeanor.
- (b) The Wildlife Resources Commission may, either before or after the institution of any other action or proceeding authorized by this section, institute a civil action for injunctive relief to restrain a violation or threatened violation of subsection (a) of this section pursuant to G.S. 113-131. The action shall be brought in the superior court of the county in which the violation or threatened violation is occurring or about to occur and shall be in the name of the State upon the relation of the Wildlife Resources Commission. The court, in issuing any final order in any action brought pursuant to this subsection may, in its discretion, award costs of litigation including reasonable attorney and expert-witness fees to any party.

NCGS Chapter 63 – Aeronautics

§ 63-95. Applicability of Article

- (a) Applicability. – This Article does not apply to model aircraft, as defined in subsection (b) of this section.
- (b) Model aircraft. – An aircraft, as defined in G.S. 63-1, that is mechanically driven or launched into flight and that meets all of the following requirements:
 - a. Is flown solely for hobby or recreational purposes.
 - b. Is not used for payment, consideration, gratuity, or benefit, directly or indirectly charged, demanded, received, or collected, by any person for the use of the aircraft or any photographic or video image produced by the aircraft.

§ 63-95. Training required for operation of unmanned aircraft systems.

- (a) As used in this Article, the term "Division" means the Division of Aviation of the Department of Transportation.
- (b) The Division shall develop a knowledge test for operating an unmanned aircraft system that complies with all applicable State and federal regulations and shall provide for administration of the test. The test shall ensure that the operator of an unmanned aircraft system is knowledgeable of the State statutes and regulations regarding the operation of unmanned aircraft systems. The Division may permit a person, including an agency of this State, an agency of a political subdivision of this State, an employer, or a private training facility, to administer the test developed pursuant to this subsection, provided the test is the same as that administered by the Division and complies with all applicable State and federal regulations.
- (c) No agent or agency of the State, or agent or agency of a political subdivision of the State, may operate an unmanned aircraft system within the State without completion of the test set forth in subsection (b) of this section.

§ 63-96. Permit required for commercial operation of unmanned aircraft systems.

- (a) No person shall operate an unmanned aircraft system, as defined in G.S. 15A-300.1, in this State for commercial purposes unless the person is in possession of a permit issued by the Division valid for the unmanned aircraft system being operated. Application for the permit shall be made in the manner provided by the Division. Unless suspended or revoked, the license shall be effective for a period to be established by the Division not exceeding eight years.
- (b) No person shall be issued a permit under this section unless all of the following apply:
 - (1) The person is at least the minimum age required by federal regulation for operation of an unmanned aircraft system.
 - (2) The person possesses a valid government-issued photographic identification acceptable to the Federal Aviation Administration for issuing authorization to operate an unmanned aircraft system.
 - (3) The person has passed the knowledge test for operating an unmanned aircraft system as prescribed in G.S. 63-95(b).
 - (4) The person has satisfied all other applicable requirements of this Article or federal regulation.
- (c) A permit to operate an unmanned aircraft system for commercial purposes shall not be issued to a person while the person's license or permit to operate an unmanned aircraft system is suspended, revoked, or cancelled in any state.
- (d) The Division shall develop and administer a program that complies with all applicable federal regulations to issue permits to operators of unmanned aircraft systems for commercial purposes, including a fee structure for permits. Criteria and requirements established under the subdivisions set forth in this subsection shall be no more restrictive than the rules or regulations adopted by the Federal Aviation Administration setting forth the criteria and requirements under which a person may operate an unmanned aircraft system for commercial purposes. The program must include the following components:
 - (1) A system for classifying unmanned aircraft systems based on characteristics determined to be appropriate by the Division.
 - (2) *Removed per Session Law 2017-160*
 - (3) A permit application process, which shall include a requirement that the Division provide notice to an applicant of the Division's decision on issuance of a permit no later than 10 days from the date the Division receives the applicant's

application.

- (4) Technical guidance for complying with program requirements.
 - (5) Criteria under which the Division may suspend or revoke a permit.
 - (6) Criteria under which the Division may waive permitting requirements for applicants currently holding a valid license or permit to operate unmanned aircraft systems issued by another state or territory of the United States, the District of Columbia, or the United States.
 - (7) A designation of the geographic area within which a permittee shall be authorized to operate an unmanned aircraft system.
 - (8) Requirements pertaining to the collection, use, and retention of data by permittees obtained through the operation of unmanned aircraft systems, to be established in consultation with the State Chief Information Officer.
 - (9) Requirements for the marking of each unmanned aircraft system operated pursuant to a permit issued under this section sufficient to allow identification of the owner of the system and the person issued a permit to operate it.
 - (10) A system for providing agencies that conduct other operations within regulated airspace with the identity and contact information of permittees and the geographic areas within which the permittee is authorized to operate an unmanned aircraft system.
- (e) A person who operates an unmanned aircraft system for commercial purposes other than as permitted under this section shall be guilty of a Class 1 misdemeanor.
 - (f) Subject to the limitations set forth in subsection (d) of this section, the Division may issue rules and regulations to implement the provisions of this section.

S.L. 2015-232 SECTION 2.5

Prior to the implementation of the knowledge test and permitting process required by G.S. 63-96, any person authorized by the FAA for commercial operation of an unmanned aircraft system in this State shall not be in violation of that statute, provided that the person makes application for a State permit for commercial operation within 60 days of the full implementation of the permitting process and is issued a State commercial operation permit in due course.