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SENATE BILL NO. 526

FLOOR AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by Senator Obenshain
on January 29, 2018)

(Patron Prior to Substitute—Senator Obenshain)

A *BILL to amend and reenact §§ 15.2-926.3 and 19.2-60.1 of the Code of Virginia, to amend the Code of Virginia by adding in Article 8 of Chapter 7 of Title 18.2 a section numbered 18.2-324.2, and to repeal the second enactment of Chapter 451 of the Acts of Assembly of 2016, relating to harassment; unmanned aircraft system; penalty.*

Be it enacted by the General Assembly of Virginia:

1. That §§ 15.2-926.3 and 19.2-60.1 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Article 8 of Chapter 7 of Title 18.2 a section numbered 18.2-324.2 as follows:

§ 15.2-926.3. (Expires July 1, 2019) Local regulation of certain aircraft.

No ~~locality~~ political subdivision may regulate the use of a privately owned, unmanned aircraft system as defined in § 19.2-60.1 within its boundaries.

§ 18.2-324.2. Use of unmanned aircraft system for certain purposes; penalty.

A. It is unlawful for any person who is required to register pursuant to § 9.1-901 to use or operate an unmanned aircraft system to knowingly and intentionally follow, contact, or capture images of another person without permission of such person.

B. It is unlawful for a respondent of a protective order pursuant to § 16.1-279.1 or 19.2-152.10 to knowingly and intentionally use or operate an unmanned aircraft system to follow, contact, or capture images of any persons listed on the protective order.

C. A violation of this section is a Class 1 misdemeanor.

§ 19.2-60.1. Use of unmanned aircraft systems by public bodies; search warrant required.

A. As used in this section, unless the context requires a different meaning:

"Unmanned aircraft" means an aircraft that is operated without the possibility of human intervention from within or on the aircraft.

"Unmanned aircraft system" means an unmanned aircraft and associated elements, including communication links, sensing devices, and the components that control the unmanned aircraft.

B. No state or local government department, agency, or instrumentality having jurisdiction over criminal law enforcement or regulatory violations, including but not limited to the Department of State Police, and no department of law enforcement as defined in § 15.2-836 of any county, city, or town shall utilize an unmanned aircraft system except during the execution of a search warrant issued pursuant to this chapter or an administrative or inspection warrant issued pursuant to law.

C. Notwithstanding the prohibition in this section, an unmanned aircraft system may be deployed without a warrant (i) when an Amber Alert is activated pursuant to § 52-34.3, (ii) when a Senior Alert is activated pursuant to § 52-34.6, (iii) when a Blue Alert is activated pursuant to § 52-34.9, (iv) where use of an unmanned aircraft system is determined to be necessary to alleviate an immediate danger to any person, (v) for training exercises related to such uses, or (vi) if a person with legal authority consents to the warrantless search.

D. The warrant requirements of this section shall not apply when such systems are utilized to support the Commonwealth for purposes other than law enforcement, including damage assessment, traffic assessment, flood stage assessment, and wildfire assessment. Nothing herein shall prohibit use of unmanned aircraft systems for private, commercial, or recreational use or solely for research and development purposes by institutions of higher education and other research organizations or institutions.

E. Evidence obtained through the utilization of an unmanned aircraft system in violation of this section is not admissible in any criminal or civil proceeding.

F. In no case may a weaponized unmanned aircraft system be deployed in the Commonwealth or its use facilitated in the Commonwealth by a state or local government department, agency, or instrumentality or department of law enforcement in the Commonwealth except in operations at the Space Port and Naval/Aegis facilities at Wallops Island.

G. Nothing herein shall apply to the Armed Forces of the United States or the Virginia National Guard while utilizing unmanned aircraft systems during training required to maintain readiness for its federal mission or when facilitating training for other U.S. Department of Defense units.

H. Subject to any additional requirements of prohibitions provided by this section, any person authorized by federal regulations to operate an unmanned aircraft system may operate such system in the Commonwealth for any lawful purpose, provided that such system is operated in a manner consistent with federal regulations.

60 2. That the second enactment of Chapter 451 of the Acts of Assembly of 2016 is repealed.