



State of Wisconsin
2015 - 2016 LEGISLATURE

LRB-3113/5
EVM:jld&amn

2015 SENATE BILL 498

January 5, 2016 – Introduced by Senators GUXEX, WANGGAARD and MARKLEIN, cosponsored by Representatives SCHRAA, MURPHY, BALLWEG, MURSAU, SKOWRONSKI, A. OTT, BROSTOFF, HEATON, HORLACHER, THIESFELDT, HINTZ, T. LARSON, E. BROOKS, TITTL, SPIROS and KERKMAN. Referred to Committee on Judiciary and Public Safety.

1 **AN ACT to renumber and amend** 114.105; **to amend** 114.04; and **to create**
2 114.045, 114.105 (1) and 114.105 (3) of the statutes; **relating to:** the operation
3 of drones over state correctional institutions, the authority of political
4 subdivisions to designate areas over which the operation of drones is limited,
5 and providing a penalty.

Analysis by the Legislative Reference Bureau

This bill prohibits the operation of drones over a state correctional institution. Any person who violates this prohibition may be required to forfeit not more than \$5,000. Also, a law enforcement officer investigating an alleged violation of this provision is required to seize and transfer to the Department of Corrections any visual representation or data that represents a visual image that was created or recorded by a drone during the alleged violation.

This bill also authorizes a city, village, town, or county (political subdivision) to enact an ordinance designating an area within its jurisdiction as an area over which the operation of a drone is limited and imposing limitations on the operation of drones over the designated area. The ordinance may not apply to the operation of a drone by the state, an agency of the state, or a public safety agency or the operation of a drone with the consent of the owner of the property over which the drone is operated. A political subdivision may provide a forfeiture of not more than \$2,500 for each violation of a drone operation ordinance.

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For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 114.04 of the statutes is amended to read:

2 **114.04 Flying and landing, limitations.** Subject to s. ss. 114.105 (3) and
3 175.55, and except as provided in s. ss. 114.045 and 942.10, flight of or in aircraft or
4 spacecraft over the lands and waters of this state is lawful, unless at such a low
5 altitude as to interfere with the then existing use to which the land or water, or the
6 space over the land or water, is put by the owner, or unless so conducted as to be
7 imminently dangerous or damaging to persons or property lawfully on the land or
8 water beneath. The landing of an aircraft or spacecraft on the lands or waters of
9 another, without the person's consent, is unlawful, except in the case of a forced
10 landing. For damages caused by a forced landing, however, the owner or lessee of the
11 aircraft or spacecraft or the aeronaut or astronaut shall be liable, as provided in s.
12 114.05.

13 **SECTION 2.** 114.045 of the statutes is created to read:

14 **114.045 Limitation on the operation of drones. (1)** No person may operate
15 a drone, as defined in s. 114.105 (1) (a), over a state correctional institution, as
16 defined in s. 301.01 (4), including any grounds of the institution.

17 **(2)** Any person who violates sub. (1) may be required to forfeit not more than
18 \$5,000.

19 **(3)** A law enforcement officer investigating an alleged violation of sub. (1) shall
20 seize and transfer to the department of corrections any photograph, motion picture,

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1 other visual representation, or data that represents a visual image that was created
2 or recorded by a drone during an alleged violation of sub. (1).

3 **SECTION 3.** 114.105 of the statutes is renumbered 114.105 (2) and amended to
4 read:

5 114.105 (2) ~~Any county, town, city or village~~ A political subdivision may adopt
6 any ordinance in strict conformity with the provisions of this chapter and impose the
7 same penalty for violation of any of its provisions except that ~~such an ordinance shall~~
8 under this subsection may not provide for the suspension or revocation of pilot or
9 aircraft licenses or certificates and ~~shall may~~ not provide for imprisonment except
10 for failure to pay any fine which may be imposed.

11 ~~(4) No local authority shall~~ political subdivision may enact any ordinance
12 governing aircraft or aeronautics or spacecraft or astronautics contrary to or
13 inconsistent with the provisions of this chapter or federal law.

14 ~~(5) Every court in which a violation of such an ordinance under this section is~~
15 ~~prosecuted shall make a written report of any conviction (, including bail or~~
16 ~~appearance money forfeiture), to the federal aviation administration.~~

17 **SECTION 4.** 114.105 (1) of the statutes is created to read:

18 114.105 (1) In this section:

19 (a) "Drone" means a powered, aerial vehicle that does not carry a human
20 operator, uses aerodynamic forces to provide vehicle lift, and can fly autonomously
21 or be piloted remotely. A drone may be expendable or recoverable.

22 (b) "Political subdivision" means a city, village, town, or county.

23 **SECTION 5.** 114.105 (3) of the statutes is created to read:

24 114.105 (3) (a) If a political subdivision determines that public safety requires
25 that drone operation over an area under the jurisdiction of the political subdivision

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1 be limited, subject to par. (b), the political subdivision may enact an ordinance
2 designating the area as an area over which the operation of a drone is limited and
3 imposing limitations on the operation of drones over the designated area. Subject
4 to par. (b), an ordinance under this section may prohibit any operation of a drone over
5 a designated area.

6 (b) An ordinance under par. (a) may not apply to any of the following:

7 1. The operation of a drone by the state, an agency of the state, or a public safety
8 agency, as defined in s. 256.35 (1) (g).

9 2. The operation of a drone with the permission of the owner of the property
10 over which the drone is operated.

11 (c) If a political subdivision enacts an ordinance under par. (a), the political
12 subdivision shall provide notice reasonably calculated to inform the public of the
13 location of areas over which drone operation is limited. If the political subdivision
14 produces a newsletter for its residents, the political subdivision shall provide notice
15 of the areas affected by an ordinance under par. (a) in the newsletter. If the political
16 subdivision maintains an Internet site, the political subdivision shall maintain a list
17 of locations affected by an ordinance under par. (a) on the Internet site.

18 (d) A political subdivision may provide a forfeiture of not more than \$2,500 for
19 each violation of an ordinance under par. (a).

20 (END)