



State of Wisconsin
2017 - 2018 LEGISLATURE

LRBs0279/2
EVM:ahc

**ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO ASSEMBLY BILL 855**

February 5, 2018 - Offered by Representative SCHRAA.

1 **AN ACT** *to repeal* 942.10; *to renumber and amend* 114.045 (1) and 114.105; *to*
2 *amend* 114.04, 114.045 (3) and 175.55 (2); and *to create* 114.045 (1) (b),
3 114.045 (1) (c), 114.045 (1) (d), 114.045 (4), 114.105 (1), 114.105 (3) and 114.105
4 (4) (b) of the statutes; **relating to:** the operation and regulation of unmanned
5 aircraft and providing a penalty.

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

6 **SECTION 1.** 114.04 of the statutes is amended to read:
7 **114.04 Flying and landing, limitations.** Subject to ~~s. ss. 114.105 (3)~~
8 ~~and~~175.55, and except as provided in ss. ~~s. 114.045 and 942.10~~, flight of or in aircraft
9 or spacecraft over the lands and waters of this state is lawful, unless at such a low
10 altitude as to interfere with the then existing use to which the land or water, or the
11 space over the land or water, is put by the owner, or unless so conducted as to be

1 imminently dangerous or damaging to persons or property lawfully on the land or
2 water beneath. The landing of an aircraft or spacecraft on the lands or waters of
3 another, without the person's consent, is unlawful, except in the case of a forced
4 landing. For damages caused by a forced landing, however, the owner or lessee of the
5 aircraft or spacecraft or the aeronaut or astronaut shall be liable, as provided in s.
6 114.05.

7 **SECTION 2.** 114.045 (1) of the statutes is renumbered 114.045 (1) (intro.) and
8 amended to read:

9 114.045 (1) (intro.) No person may operate a drone, as defined in s. 114.105 (1)
10 (a), over in any of the following manners:

11 (a) Over a correctional institution, as defined in s. 801.02 (7) (a) 1., including
12 any grounds of the institution, without consent of the warden, or his or her designee.

13 **SECTION 3.** 114.045 (1) (b) of the statutes is created to read:

14 114.045 (1) (b) So as to interfere with the official duties of a police officer, fire
15 fighter, emergency medical responder, emergency medical services practitioner, or
16 search and rescue officer.

17 **SECTION 4.** 114.045 (1) (c) of the statutes is created to read:

18 114.045 (1) (c) 1. So as to constitute stalking under s. 940.32 or harassment
19 under s. 947.013.

20 2. So as to violate a restraining order or other judicial order.

21 3. For the purpose of photographing, recording, or otherwise observing another
22 individual in a place or location where the individual has a reasonable expectation
23 of privacy.

1 4. If an individual is required to register as a sex offender and is prohibited from
2 taking these actions, for the purpose of following or contacting or photographing,
3 recording, or otherwise observing another individual.

4 **SECTION 5.** 114.045 (1) (d) of the statutes is created to read:

5 114.045 (1) (d) Near critical infrastructure designated under sub. (4) during a
6 state of emergency declared under s. 323.10.

7 **SECTION 6.** 114.045 (3) of the statutes is amended to read:

8 114.045 (3) A law enforcement officer investigating an alleged violation of sub.
9 (1) (a) shall seize and transfer to the department of corrections or authority in charge
10 of the correctional institution any photograph, motion picture, other visual
11 representation, or data that represents a visual image that was created or recorded
12 by a drone during an alleged violation of sub. (1) (a).

13 **SECTION 7.** 114.045 (4) of the statutes is created to read:

14 114.045 (4) If the governor declares a state of emergency under s. 323.10, the
15 governor or, upon designation by the governor, the adjutant general, may designate
16 critical infrastructure near which drones may not be operated. Designations of
17 critical infrastructure under this subsection shall be based on immediate threats to
18 public health and safety.

19 **SECTION 8.** 114.105 of the statutes is renumbered 114.105 (2) and amended to
20 read:

21 114.105 (2) ~~Any county, town, city or village~~ A political subdivision may adopt
22 any ordinance in strict conformity with the provisions of this chapter and impose the
23 same penalty for violation of any of its provisions except that ~~such an ordinance shall~~
24 under this subsection may not provide for the suspension or revocation of pilot or

1 aircraft licenses or certificates and ~~shall~~ may not provide for imprisonment ~~except~~
2 ~~for failure to pay any fine which may be imposed.~~

3 ~~(4) (a) No local authority shall~~ political subdivision may enact any ordinance
4 governing aircraft or aeronautics or spacecraft or astronautics contrary to or
5 inconsistent with the provisions of this chapter or federal law. ~~Every court in which~~
6 ~~a violation of such ordinance is prosecuted shall make a written report of any~~
7 ~~conviction (including bail or appearance money forfeiture) to the federal aviation~~
8 ~~administration.~~

9 **SECTION 9.** 114.105 (1) of the statutes is created to read:

10 114.105 (1) In this section:

11 (a) “Drone” means a powered, aerial vehicle that does not carry a human
12 operator, uses aerodynamic forces to provide vehicle lift, and can fly autonomously
13 or be piloted remotely. A drone may be expendable or recoverable.

14 (b) “Political subdivision” means a city, village, town, or county.

15 **SECTION 10.** 114.105 (3) of the statutes is created to read:

16 114.105 (3) A political subdivision may enact an ordinance limiting the use of
17 drones by the political subdivision. If a political subdivision has in effect on the
18 effective date of this subsection [LRB inserts date], an ordinance that is
19 inconsistent with this subsection, the ordinance does not apply and may not be
20 enforced.

21 **SECTION 11.** 114.105 (4) (b) of the statutes is created to read:

22 114.105 (4) (b) Except as provided in sub. (3), no political subdivision may
23 regulate the ownership or operation of a drone.

24 **SECTION 12.** 175.55 (2) of the statutes is amended to read:

1 175.55 (2) No Wisconsin law enforcement agency may intentionally use a drone
2 to gather evidence or other information in a criminal investigation from or at a place
3 or location where an individual has a reasonable expectation of privacy without first
4 obtaining a search warrant under s. 968.12. This subsection does not apply to the
5 use of a drone in a public place or to assist in an active search and rescue operation,
6 to locate an escaped prisoner, to surveil a place or location for the purpose of
7 executing ~~an~~ a search or arrest warrant, or if a law enforcement officer has
8 reasonable suspicion to believe that the use of a drone is necessary to prevent
9 imminent danger to an individual or to prevent imminent destruction of evidence.

10 **SECTION 13.** 942.10 of the statutes is repealed.

11 **(END)**