



## WISCONSIN LEGISLATIVE COUNCIL ACT MEMO

**2017 Wisconsin Act 322**  
[2017 Assembly Bill 855]

**Drone and Aircraft Regulation**

2017 Wisconsin Act 322 makes various changes, described below, relating to local regulation of aircraft and limitations for the flying and landing of aircraft.

### DEFINING THE TERM “DRONE”

**Prior law** defined the term “drone” for the purposes of law enforcement use of a drone and drone privacy regulations. Under this definition, “drone” was defined to mean a powered, aerial vehicle that carries or is equipped with a device that, in analog, digital, or other form, gathers, records, or transmits a sound or image, that does not carry a human operator, uses aerodynamic forces to provide vehicle lift, can fly autonomously or be piloted remotely, and that may be expendable or recoverable. [s. 175.55 (1) (a), Stats.]

The **Act** eliminates this definition and creates a new definition of the term “drone” for the purposes of local regulation of a drone, law enforcement use of a drone, and drone privacy regulations. Under the Act, the term “drone” is defined to mean an aircraft operated without the possibility of direct human intervention from within or on the aircraft.<sup>1</sup>

### LOCAL REGULATION

A city, village, town, or county (political subdivision) may enact an ordinance regulating the use of aeronautics and astronautics, including drones, but their authority to do so is restricted by state law.

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<sup>1</sup> For the purposes of criminalizing the possession of a weaponized drone, the statutes define a “drone” to mean a powered, aerial vehicle that does not carry a human operator, uses aerodynamic forces to provide vehicle lift, can fly autonomously or be piloted remotely, and that may be expendable or recoverable. This definition is unchanged by the Act. [s. 941.292, Stats.]

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This memo provides a brief description of the Act. For more detailed information, consult the text of the law and related legislative documents at the Legislature’s Web site at: <http://www.legis.wisconsin.gov>.

Under **prior law**, a political subdivision could adopt an ordinance relating to aeronautics and astronautics that strictly conforms to state laws, as long as the penalty for violating such an ordinance did not provide for the suspension or revocation of pilot or aircraft licenses or certificates. In addition, such a law could not provide for imprisonment except for failure to pay any fine which may be imposed. Prior law also prohibited a political subdivision from enacting an ordinance that conflicted with or was inconsistent with state or federal law and required every court in which a violation of such a local ordinance was prosecuted to make a written report of any conviction to the federal government. [s. 114.105., Stats.]

The **Act** generally makes the following changes to prior law as it relates to local regulation of aeronautics and astronautics:

- Prohibits a political subdivision from regulating the ownership or operation of a drone, unless such a regulation limits the use of drones by the political subdivision.
- Eliminates the provision that requires every court in which a violation of such a local ordinance was prosecuted to make a report to the federal government.

### **FLYING AND LANDING LIMITATIONS**

Under **prior law**, the statutes provided that flight of an aircraft or spacecraft over the lands and waters of the state was generally lawful unless: (1) at such low altitude as to interfere with the then-existing use to which the land or water, or space over the land or water, was put by the owner; or (2) unless so conducted as to be imminently dangerous or damaging to persons or property lawfully on the land or water beneath. [s.114.04, Stats.]

The **Act** modifies the statutes by providing that flight of an aircraft or spacecraft over the lands and waters of the state is generally lawful unless: (1) at such low altitude as to **intentionally** interfere with the then-existing use to which the land or water, or space over the land or water, is put by the owner; or (2) unless so conducted as to be imminently dangerous or damaging to persons or property lawfully on the land or water beneath.

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