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THIRD REPRINT

A.B. 239

ASSEMBLY BILL NO. 239—ASSEMBLYMEN ELLIOT ANDERSON,
OHRENSCHALL, HANSEN, SPIEGEL, WHEELER; ARAUJO,
BENITEZ-THOMPSON, BUSTAMANTE ADAMS, CARRILLO,
DIAZ, FLORES, JOINER, NEAL AND SPRINKLE

MARCH 9, 2015

JOINT SPONSOR: SENATOR MANENDO

Referred to Committee on Judiciary

SUMMARY—Regulates operators of unmanned aerial vehicles in
this State. (BDR 44-8)

FISCAL NOTE: Effect on Local Government: Increases or Newly
Provides for Term of Imprisonment in County or City
Jail or Detention Facility.
Effect on the State: Yes.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to aircraft; regulating operators of unmanned aerial vehicles in this State; revising the definition of “aircraft” to include unmanned aerial vehicles; prohibiting the operation or use of an unmanned aerial vehicle under certain circumstances or for certain purposes; authorizing a law enforcement agency to operate an unmanned aerial vehicle at certain locations without a warrant under certain circumstances and for any other lawful purpose; prohibiting a law enforcement agency from operating an unmanned aerial vehicle without first obtaining a warrant under certain circumstances; authorizing a public agency to operate an unmanned aerial vehicle only under certain circumstances; requiring the Department of Public Safety, to the extent that money is available, to establish and maintain a registry of unmanned aerial vehicles that are operated by public agencies in this State; requiring the Department to report certain information to the Legislature with respect to the operation of unmanned aerial vehicles by public agencies in this State; requiring the Department to adopt regulations prescribing the public purposes for which a public agency may operate an unmanned aerial vehicle in this State; providing certain criminal and civil penalties for the unlawful operation or use of an unmanned aerial vehicle in this State; and providing other matters properly relating thereto.



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Legislative Counsel's Digest:

Existing law provides for the regulation of aeronautics, including the operation of aircraft, in this State. (Title 44 of NRS) This bill revises the definition of "aircraft" to include unmanned aerial vehicles for the purpose of regulating unmanned aerial vehicles. This bill generally regulates the operators of unmanned aerial vehicles in this State in a manner similar to that of traditional aircraft by: (1) establishing the right to operate an unmanned aerial vehicle in this State, with certain exceptions; (2) clarifying that the provisions of this bill are not to be interpreted in a manner inconsistent with federal law or apply to unmanned aerial vehicles owned or operated by the Federal Government; (3) clarifying the applicability of state law to torts and crimes resulting from the operation of unmanned aerial vehicles; and (4) prohibiting a person from operating or using an unmanned aerial vehicle under certain circumstances or for certain purposes.

Section 18 of this bill prohibits a person from weaponizing an unmanned aerial vehicle. **Section 18.5** of this bill prohibits a person from operating an unmanned aerial vehicle within a certain distance from critical facilities or an airport except under certain circumstances in which the person obtains the consent of the owner of a critical facility or the airport authority of an airport or authorization from the Federal Aviation Administration. **Section 19** of this bill authorizes a person who owns or lawfully occupies real property to bring an action for trespass against the owner or operator of an unmanned aerial vehicle under certain circumstances and provides certain exceptions to bringing such an action. **Sections 20-22** of this bill prescribe certain restrictions on the operation and use of unmanned aerial vehicles by law enforcement agencies and public agencies. **Section 20** specifically prohibits, with limited exceptions, a law enforcement agency from operating an unmanned aerial vehicle for the purpose of gathering evidence or other information at any location or upon any property in this State at which a person has a reasonable expectation of privacy without first obtaining a warrant. **Section 20** authorizes a law enforcement agency to operate an unmanned aerial vehicle without a warrant: (1) if exigent circumstances exist and there is probable cause to believe that a person has committed, is committing or is about to commit a crime; (2) if a person consents in writing to the activity; (3) for the purpose of conducting search and rescue operations; (4) if the law enforcement agency believes that an imminent threat exists to the life and safety of an individual person or to the public at large, including the threat of an act of terrorism; and (5) upon the declaration of a state of emergency or disaster by the Governor. **Section 21** authorizes a public agency, other than a law enforcement agency, to operate an unmanned aerial vehicle for certain public purposes as prescribed by regulations adopted by the Department of Public Safety if the public agency registers the unmanned aerial vehicle with the Department. **Sections 20 and 21** provide that any photograph, image, recording or other information acquired unlawfully by a law enforcement agency or public agency, or otherwise acquired in a manner inconsistent with **section 20**, and any evidence that is derived therefrom, is inadmissible in any judicial, administrative or other adjudicatory proceeding and may not be used to establish reasonable suspicion or probable cause as the basis for investigating or prosecuting a crime or offense. **Section 22** requires the Department, to the extent that money is available for this purpose, to establish and maintain a registry of unmanned aerial vehicles that are operated by public agencies in this State and requires the Department to adopt regulations prescribing the public purposes for which an agency may operate an unmanned aerial vehicle. **Section 22** further requires the Department to prepare and submit an annual report to the Legislature outlining the activities of public agencies with respect to the operation of unmanned aerial vehicles in this State. **Section 24.4** of this bill revises provisions relating to the liability of the operator of an aircraft, including an unmanned aerial vehicle, with respect to the operation of the aircraft over heavily populated areas or public gatherings. **Section 24.8** of this



bill prohibits a person from operating an unmanned aerial vehicle while intoxicated or in a careless or reckless manner so as to endanger the life or property of another person.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 493 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 22, inclusive, of this act.

Sec. 2. (Deleted by amendment.)

Sec. 3. (Deleted by amendment.)

Sec. 4. (Deleted by amendment.)

Sec. 5. (Deleted by amendment.)

Sec. 6. (Deleted by amendment.)

Sec. 7. (Deleted by amendment.)

Sec. 8. (Deleted by amendment.)

Sec. 9. (Deleted by amendment.)

Sec. 10. (Deleted by amendment.)

Sec. 11. (Deleted by amendment.)

Sec. 12. (Deleted by amendment.)

Sec. 13. (Deleted by amendment.)

Sec. 14. (Deleted by amendment.)

Sec. 15. (Deleted by amendment.)

Sec. 16. (Deleted by amendment.)

Sec. 17. (Deleted by amendment.)

Sec. 18. 1. *A person shall not weaponize an unmanned aerial vehicle or operate a weaponized unmanned aerial vehicle. A person who violates this section is guilty of a category D felony and shall be punished as provided in NRS 193.130.*

2. *A person who weaponizes an unmanned aerial vehicle in violation of subsection 1 and who discharges the weapon is guilty of a category C felony and shall be punished as provided in NRS 193.130.*

Sec. 18.5. 1. *A person shall not operate an unmanned aerial vehicle within:*

(a) A horizontal distance of 500 feet or a vertical distance of 250 feet from a critical facility without the written consent of the owner of the critical facility.

(b) Except as otherwise provided in subsection 2, 5 miles of an airport.

2. *A person may operate an unmanned aerial vehicle within 5 miles of an airport only if the person obtains the consent of the airport authority or the operator of the airport, or if the person has otherwise obtained a waiver, exemption or other authorization for*



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1 *such operation pursuant to any rule or regulation of the Federal*
2 *Aviation Administration. A person who is authorized to operate an*
3 *unmanned aerial vehicle within 5 miles of an airport pursuant to*
4 *this subsection shall, at all times during such operation, maintain*
5 *on his or her person documentation of any waiver, exemption,*
6 *authorization or consent permitting such operation.*

7 3. A person who violates this section is guilty of a
8 misdemeanor.

9 4. As used in this section, "airport" means any area of land
10 or water owned, operated or maintained by or on behalf of a city,
11 county, town, municipal corporation or airport authority that is
12 designed and set aside for the landing and taking off of aircraft
13 and that is utilized in the interest of the public for such purposes.

14 **Sec. 19.** 1. Except as otherwise provided in subsection 2, a
15 person who owns or lawfully occupies real property in this State
16 may bring an action for trespass against the owner or operator of
17 an unmanned aerial vehicle that is flown at a height of less than
18 250 feet over the property if:

19 (a) The owner or operator of the unmanned aerial vehicle has
20 flown the unmanned aerial vehicle over the property at a height of
21 less than 250 feet on at least one previous occasion; and

22 (b) The person who owns or occupies the real property notified
23 the owner or operator of the unmanned aerial vehicle that the
24 person did not authorize the flight of the unmanned aerial vehicle
25 over the property at a height of less than 250 feet. For the
26 purposes of this paragraph, a person may place the owner or
27 operator of an unmanned aerial vehicle on notice in the manner
28 prescribed in subsection 2 of NRS 207.200.

29 2. A person may not bring an action pursuant to subsection 1
30 if:

31 (a) The unmanned aerial vehicle is lawfully in the flight path
32 for landing at an airport, airfield or runway.

33 (b) The unmanned aerial vehicle is in the process of taking off
34 or landing.

35 (c) The unmanned aerial vehicle was under the lawful
36 operation of:

37 (1) A law enforcement agency in accordance with section
38 20 of this act.

39 (2) A public agency in accordance with section 21 of this
40 act.

41 (d) The unmanned aerial vehicle was under the lawful
42 operation of a business licensed in this State or a land surveyor if:

43 (1) The operator is licensed or otherwise approved to
44 operate the unmanned aerial vehicle by the Federal Aviation
45 Administration;



(2) *The unmanned aerial vehicle is being operated within the scope of the lawful activities of the business or surveyor; and*

(3) *The operation of the unmanned aerial vehicle does not unreasonably interfere with the existing use of the real property.*

3. *A plaintiff who prevails in an action for trespass brought pursuant to subsection 1 is entitled to recover treble damages for any injury to the person or the real property as the result of the trespass. In addition to the recovery of damages pursuant to this subsection, a plaintiff may be awarded reasonable attorney's fees and costs and injunctive relief.*

Sec. 20. 1. *Except as otherwise provided in this section, nothing in this section shall be deemed to otherwise prohibit the operation of an unmanned aerial vehicle by a law enforcement agency for any lawful purpose in this State.*

2. *Except as otherwise provided in subsection 3, a law enforcement agency shall not operate an unmanned aerial vehicle for the purpose of gathering evidence or other information within the curtilage of a residence or at any other location or upon any property in this State at which a person has a reasonable expectation of privacy, unless the law enforcement agency first obtains a warrant from a court of competent jurisdiction authorizing the use of the unmanned aerial vehicle for that purpose. A warrant authorizing the use of an unmanned aerial vehicle must specify the period for which operation of the unmanned aerial vehicle is authorized. A warrant must not authorize the use of an unmanned aerial vehicle for a period of more than 10 days. Upon motion and a showing of probable cause, a court may renew a warrant after the expiration of the period for which the warrant was initially issued.*

3. *A law enforcement agency may operate an unmanned aerial vehicle without obtaining a warrant issued pursuant to subsection 2:*

(a) *If the law enforcement agency has probable cause to believe that a person has committed a crime, is committing a crime or is about to commit a crime, and exigent circumstances exist that make it unreasonable for the law enforcement agency to obtain a warrant authorizing the use of the unmanned aerial vehicle.*

(b) *If a person provides written consent to the law enforcement agency authorizing the law enforcement agency to acquire information about the person or the real or personal property of the person. The written consent must specify the information to be gathered and the time, place and manner in which the information is to be gathered by the law enforcement agency.*

(c) *For the purpose of conducting search and rescue operations for persons and property in distress.*



(d) Under circumstances in which the law enforcement agency believes that an imminent threat exists to the life and safety of an individual person or to the public at large, including, without limitation, the threat of an act of terrorism. A law enforcement agency that operates an unmanned aerial vehicle pursuant to this paragraph shall document the factual basis for its belief that such an imminent threat exists and shall, not later than 2 business days after initiating operation, file a sworn statement with a court of competent jurisdiction describing the nature of the imminent threat and the need for the operation of the unmanned aerial vehicle.

(e) Upon the declaration of a state of emergency or disaster by the Governor. A law enforcement agency that operates an unmanned aerial vehicle pursuant to this paragraph shall not use the unmanned aerial vehicle outside of the geographic area specified in the declaration or for any purpose other than the preservation of public safety, the protection of property, or the assessment and evaluation of environmental or weather-related damage, erosion or contamination.

4. Any photograph, image, recording or other information that is acquired by a law enforcement agency through the operation of an unmanned aerial vehicle in violation of this section, or that is acquired from any other person or governmental entity, including, without limitation, a public agency and any department or agency of the Federal Government, that obtained the photograph, image, recording or other information in a manner inconsistent with the requirements of this section, and any evidence that is derived therefrom:

(a) Is not admissible in and must not be disclosed in a judicial, administrative or other adjudicatory proceeding; and

(b) May not be used to establish reasonable suspicion or probable cause as the basis for investigating or prosecuting a crime or offense.

Sec. 21. 1. A public agency:

(a) May operate an unmanned aerial vehicle only if:

(1) Before the operation of the unmanned aerial vehicle, the public agency registers the unmanned aerial vehicle with the Department pursuant to subsection 2 of section 22 of this act.

(2) The public agency operates the unmanned aerial vehicle in accordance with the regulations adopted by the Department pursuant to subsection 4 of section 22 of this act.

(b) Must not operate an unmanned aerial vehicle for the purposes of assisting a law enforcement agency with law enforcement or conducting a criminal prosecution.



2. Any photograph, image, recording or other information that is acquired by a public agency through the operation of an unmanned aerial vehicle in violation of this section, and any evidence that is derived therefrom:

(a) Is not admissible in, and must not be disclosed in, a judicial, administrative or other adjudicatory proceeding; and

(b) May not be used to establish reasonable suspicion or probable cause as the basis for investigating or prosecuting a crime or offense.

Sec. 22. 1. The Department shall, to the extent that money is available for this purpose, establish and maintain a registry of unmanned aerial vehicles that are operated by public agencies in this State. The Department shall include on its Internet website the information that is maintained in the registry.

2. A public agency shall, for each unmanned aerial vehicle the public agency intends to operate, submit to the Department, on a form provided by the Department, for inclusion in the registry:

(a) The name of the public agency;

(b) The name and contact information of each operator of the unmanned aerial vehicle;

(c) Sufficient information to identify the unmanned aerial vehicle; and

(d) A statement describing the use of the unmanned aerial vehicle by the public agency.

3. The Department shall, on or before February 1 of each year, prepare and submit to the Director of the Legislative Counsel Bureau for submission to the Legislature, or to the Legislative Commission when the Legislature is not in regular session, a report outlining the activities of public agencies with respect to the operation of unmanned aerial vehicles in this State.

4. The Department shall adopt regulations prescribing the public purposes for which a public agency may operate an unmanned aerial vehicle that is registered with the Department pursuant to this section, including, without limitation:

(a) The provision of fire services.

(b) The provision of emergency medical services.

(c) The protection of a critical facility that is public property.

(d) Search and rescue operations conducted for persons and property in distress.

Sec. 22.5. NRS 493.010 is hereby amended to read as follows:
493.010 NRS 493.010 to 493.120, inclusive, *and sections 18 to 22, inclusive, of this act* may be cited as the Uniform State Law for Aeronautics.



1 **Sec. 23.** NRS 493.020 is hereby amended to read as follows:
2 493.020 As used in NRS 493.010 to 493.120, inclusive, *and*
3 *sections 18 to 22, inclusive, of this act*, unless the context otherwise
4 requires:

5 1. "Aircraft" includes *a* balloon, airplane, hydroplane ,
6 *unmanned aerial vehicle* and any other vehicle used for navigation
7 through the air. A hydroplane, while at rest on water and while
8 being operated on or immediately above water, is governed by the
9 rules regarding water navigation. A hydroplane while being
10 operated through the air other than immediately above water, is an
11 aircraft.

12 2. *"Critical facility" means a petroleum refinery, a petroleum*
13 *or chemical production, transportation, storage or processing*
14 *facility, a chemical manufacturing facility, a pipeline and any*
15 *appurtenance thereto, a wastewater treatment facility, a water*
16 *treatment facility, a mine as that term is defined in NRS 512.006, a*
17 *power generating station, plant or substation and any*
18 *appurtenances thereto, any transmission line that is owned in*
19 *whole or in part by an electric utility as that term is defined in*
20 *subsection 5 of NRS 704.187, a county, city or town jail or*
21 *detention facility and any prison, facility or institution under the*
22 *control of the Department of Corrections. The term does not*
23 *include any facility or infrastructure of a utility that is located*
24 *underground.*

25 3. *"Department" means the Department of Public Safety.*

26 4. *"Law enforcement agency" means an agency, office,*
27 *bureau, board, commission, department or division of this State or*
28 *a political subdivision of this State, the primary duty of which is to*
29 *enforce the law.*

30 5. "Operator" includes aviator, pilot, balloonist and any other
31 person having any part in the operation of aircraft while in flight.

32 ~~3.~~ 6. "Passenger" includes any person riding in an aircraft,
33 but having no part in its operation.

34 7. *"Public agency" means an agency, office, bureau, board,*
35 *commission, department or division of this State or a political*
36 *subdivision of this State other than a law enforcement agency.*

37 8. *"Unmanned aerial vehicle" means a powered aircraft of*
38 *any size without a human operator aboard the vehicle and that is*
39 *operated remotely or autonomously.*

40 **Sec. 24.** (Deleted by amendment.)

41 **Sec. 24.2.** NRS 493.050 is hereby amended to read as follows:

42 493.050 1. Flight ~~in~~ *of an* aircraft over the lands and waters
43 of this state is lawful:



(a) Unless at such a low altitude as to interfere with the then existing use to which the land or water, or the space over the land or water, is put by the owner.

(b) Unless so conducted as to be imminently dangerous to persons or property lawfully on the land or water beneath.

(c) Unless specifically prohibited by the provisions of NRS 493.010 to 493.120, inclusive, and sections 18 to 22, inclusive, of this act, or any regulations adopted pursuant thereto.

2. The landing of an aircraft on the lands or waters of another, without his or her consent, is unlawful, except in the case of a forced landing. For damages caused by a forced landing, the owner, lessee or operator of the aircraft is liable as provided in NRS 493.060.

Sec. 24.4. NRS 493.100 is hereby amended to read as follows:

493.100 **1.** Any operator or passenger, while *an aircraft is* in flight over a heavily populated area or over a public gathering within this state, who:

~~{1. Engages}~~

(a) Except as otherwise provided in subsection 2, engages in trick or acrobatic flying, or in any acrobatic feat;

~~{2.}~~ *(b) Except while in landing or taking off, flies at such a low level as to endanger the persons on the surface beneath; or*

~~{3.}~~ *(c) Drops any object ~~{except loose water or loose sand ballast,}~~ with reckless disregard for the safety of other persons and willful indifference to injuries that could reasonably result from dropping the object,*

↪ is guilty of a misdemeanor.

2. The provisions of paragraph (a) of subsection 1 do not apply to the operator of an unmanned aerial vehicle in a park unless the operator is operating the unmanned aerial vehicle with reckless disregard for the safety of other persons and with willful indifference to injuries that could reasonably result from such operation.

Sec. 24.6. NRS 493.120 is hereby amended to read as follows:

493.120 NRS 493.010 to 493.120, inclusive, *and sections 18 to 22, inclusive, of this act* shall be so interpreted and construed as to effectuate their general purpose to make uniform the law of those states which enact them, and to harmonize, as far as possible, with federal laws and regulations on the subject of aeronautics. They shall not be interpreted or construed to apply in any manner to aircraft owned and operated by the Federal Government.

Sec. 24.8. NRS 493.130 is hereby amended to read as follows:

493.130 **1.** Any person operating an aircraft in the air, or on the ground or water:



~~H-1~~ (a) While under the influence of intoxicating liquor or a controlled substance, unless in accordance with a lawfully issued prescription; or

~~F-1~~ (b) In a careless or reckless manner so as to endanger the life or property of another,
↪ is guilty of a gross misdemeanor.

2. As used in this section:

(a) *“Aircraft” includes an unmanned aerial vehicle as that term is defined in subsection 8 of NRS 493.020.*

(b) *“Controlled substance” has the meaning ascribed to it in 21 U.S.C. § 802(6).*

(c) *“Prescription” has the meaning ascribed to it in NRS 453.128.*

Sec. 25. The provisions of subsection 1 of NRS 218D.380 do not apply to any provision of this act which adds or revises a requirement to submit a report to the Legislature.

Sec. 26. This act becomes effective:

1. Upon passage and approval for the purpose of adopting regulations and performing any other preparatory administrative tasks necessary to carry out the provisions of this act; and

2. On October 1, 2015, for all other purposes.

