

SENATE PUBLIC AFFAIRS COMMITTEE SUBSTITUTE FOR
SENATE BILL 166

53RD LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2018

AN ACT

RELATING TO PUBLIC SAFETY; REGULATING THE OPERATION OF UNMANNED
AIRCRAFT AROUND PRISONS OR CHILDREN, YOUTH AND FAMILIES
DEPARTMENT DETENTION OR COMMITMENT FACILITIES; PROVIDING
PENALTIES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. ~~[NEW MATERIAL]~~ UNLAWFUL OPERATION OF UNMANNED
AIRCRAFT NEAR PRISONS OR CHILDREN, YOUTH AND FAMILIES
DEPARTMENT DETENTION OR COMMITMENT FACILITIES--DEFINITIONS--
PROVIDING PENALTIES.--

A. It is unlawful to operate, direct or program a
drone to fly within either a horizontal distance of five
hundred feet or a vertical distance of two hundred fifty feet
of the penitentiary of New Mexico or any other institution
designated by the corrections department for the confinement of

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1 inmates or a facility designated by the children, youth and
2 families department for the detention or commitment of
3 children; provided that this does not apply to a drone used:

4 (1) for law enforcement;

5 (2) for emergency purposes by a first
6 responder; or

7 (3) with the written permission of the warden
8 or director of the facility.

9 B. Upon a first conviction pursuant to this
10 section, an offender is guilty of a petty misdemeanor.

11 C. Upon a second or subsequent conviction pursuant
12 to this section, an offender is guilty of a misdemeanor.

13 D. As used in this section:

14 (1) "drone" means an unmanned, powered, aerial
15 vehicle that:

16 (a) does not carry a human operator;

17 (b) uses aerodynamic forces to provide
18 vehicle lift;

19 (c) can fly autonomously or be piloted
20 remotely; and

21 (d) can be expendable or recoverable;

22 and

23 (2) "first responder" means a police officer,
24 peace officer, firefighter, paramedic or search and rescue
25 person.

1 SECTION 2. Section 30-22-14 NMSA 1978 (being Laws 1976,
2 Chapter 15, Section 1, as amended) is amended to read:

3 "30-22-14. BRINGING CONTRABAND INTO PLACES OF
4 IMPRISONMENT--PENALTIES--DEFINITIONS.--

5 A. Bringing contraband into a prison consists of
6 knowingly and voluntarily carrying, transporting or depositing
7 contraband, including by use of a drone, onto the grounds of
8 the penitentiary of New Mexico or any other institution
9 designated by the corrections department for the confinement of
10 adult prisoners. Whoever commits bringing contraband into a
11 prison is guilty of a third degree felony.

12 B. Bringing contraband into a jail consists of
13 knowingly and voluntarily carrying contraband into the confines
14 of a county or municipal jail. Whoever commits bringing
15 contraband into a jail is guilty of a fourth degree felony.

16 C. As used in this section:

17 (1) "contraband" means:

18 ~~[(1)]~~ (a) a deadly weapon, as defined in
19 Section 30-1-12 NMSA 1978, or an essential component part
20 thereof, including ammunition, explosive devices and explosive
21 materials, but does not include a weapon carried by a peace
22 officer in the lawful discharge of duties;

23 ~~[(2)]~~ (b) currency brought onto the
24 grounds of the institution for the purpose of transfer to a
25 prisoner, but does not include currency carried into areas

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1 designated by the warden as areas for the deposit and receipt
2 of currency for credit to a prisoner's account before contact
3 is made with the prisoner;

4 [~~(3)~~] (c) an alcoholic beverage;

5 [~~(4)~~] (d) a controlled substance, as
6 defined in the Controlled Substances Act, but does not include
7 a controlled substance carried into a prison through regular
8 prison channels and pursuant to the direction or prescription
9 of a regularly licensed physician; or

10 [~~(5)~~] (e) an electronic communication or
11 recording device brought onto the grounds of the institution
12 for the purpose of transfer to or use by a prisoner;

13 [~~D. As used in this section]~~

14 (2) "drone" means an unmanned, powered, aerial
15 vehicle that:

16 (a) does not carry a human operator;

17 (b) uses aerodynamic forces to provide
18 vehicle lift;

19 (c) can fly autonomously or be piloted
20 remotely; and

21 (d) can be expendable or recoverable;

22 and

23 (3) "electronic communication or recording
24 device" means any type of instrument, device, machine or
25 equipment that is designed to transmit or receive telephonic,

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1 electronic, digital, cellular, satellite or radio signals or
2 communications or that is designed to have sound or image
3 recording abilities or any part or component of such
4 instrument, device, machine or equipment. "Electronic
5 communication or recording device" does not include a device
6 that is or will be used by prison or jail personnel in the
7 regular course of business or that is otherwise authorized by
8 the warden.

9 ~~[E-]~~ D. Nothing in this section shall prohibit the
10 use of hearing aids, voice amplifiers or other equipment
11 necessary to aid prisoners who have documented hearing or
12 speech deficiencies or their visitors. Rules for such devices
13 shall be established by the warden or director of each jail,
14 detention center and prison."

15 **SECTION 3.** Section 30-22-14.1 NMSA 1978 (being Laws 1997,
16 Chapter 44, Section 1) is amended to read:

17 "30-22-14.1. BRINGING CONTRABAND INTO A JUVENILE DETENTION
18 FACILITY OR JUVENILE CORRECTIONAL FACILITY--PENALTY.--

19 A. Bringing contraband into a juvenile detention
20 facility or juvenile correctional facility consists of
21 carrying, transporting or depositing contraband, including by
22 use of a drone, onto the grounds of ~~[any]~~ a facility designated
23 by the children, youth and families department for the
24 detention or commitment of children. Whoever commits bringing
25 contraband into a juvenile correctional facility is guilty of a

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1 third degree felony. Whoever commits bringing contraband into
2 a juvenile detention facility is guilty of a fourth degree
3 felony.

4 B. As used in this section:

5 (1) "contraband" means:

6 [~~1~~] (a) any deadly weapon, as defined
7 in Section 30-1-12 NMSA 1978, or an essential component part
8 thereof, including ammunition, explosive devices and explosive
9 materials, but does not include a weapon carried by a peace
10 officer in the lawful discharge of [~~his~~] the officer's duties;

11 [~~2~~] (b) currency brought onto the
12 grounds of a juvenile detention facility or juvenile
13 correctional facility and not declared upon entry to the
14 facility for the purpose of transfer to a child detained in or
15 committed to the facility, but does not include currency
16 carried into areas designated by the facility administrator as
17 areas for the deposit and receipt of currency for credit to a
18 child's account before contact is made with any child;

19 [~~3~~] (c) any alcoholic beverage brought
20 within the physical confines of the juvenile detention or
21 juvenile correctional facility; or

22 [~~4~~] (d) any controlled substance, as
23 defined in the Controlled Substances Act, but does not include
24 a controlled substance carried into a juvenile detention
25 facility or juvenile correctional facility through regular

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1 facility channels and pursuant to the direction or prescription
2 of a regularly licensed physician; and

3 (2) "drone" means an unmanned, powered, aerial
4 vehicle that:

5 (a) does not carry a human operator;

6 (b) uses aerodynamic forces to provide
7 vehicle lift;

8 (c) can fly autonomously or be piloted
9 remotely; and

10 (d) can be expendable or recoverable."

11 SECTION 4. EFFECTIVE DATE.--The effective date of the
12 provisions of this act is July 1, 2018.

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