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**SUBSTITUTE HOUSE BILL 1093**

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**State of Washington**

**64th Legislature**

**2015 Regular Session**

**By** House Technology & Economic Development (originally sponsored by Representatives Morris and Moeller)

READ FIRST TIME 02/03/15.

1 AN ACT Relating to unmanned aircraft; adding a new chapter to  
2 Title 14 RCW; and prescribing penalties.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 NEW SECTION. **Sec. 1.** The legislature finds that technological  
5 developments in unmanned aircraft have expanded the vehicles'  
6 capacity to be widely deployed in our state and in our communities.  
7 The legislature further finds that while the federal aviation  
8 administration modernization and reform act of 2012 establishes a  
9 regulatory framework for the use of unmanned aircraft by public  
10 agencies and commercial entities, the recreational use of certain  
11 small unmanned aircraft outside of federally controlled airspace is  
12 exempt from federal regulation. The potential for these small  
13 unmanned aircraft to be operated in close proximity to human  
14 dwellings and activities presents opportunities for widespread  
15 recreational use and enjoyment. At the same time, the recreational  
16 use of unmanned aircraft in Washington state airspace increases the  
17 likelihood of physical trespass onto private property and invasions  
18 of personal privacy. The legislature intends to protect personal  
19 privacy by prohibiting the use of unmanned aircraft equipped with  
20 sensing devices that collect personal information, including images

1 of individuals on private property that could not have been captured  
2 without the assistance of the unmanned aircraft.

3 The legislature finds and declares that except as otherwise  
4 required by the first amendment of the United States Constitution,  
5 the reasonable expectation of privacy of a person whose image has  
6 been captured, when the person is on private property and the  
7 landowner and tenants with a right to occupy the private property  
8 have not consented to the capture of images of the person on the  
9 property, has been violated when the image could not have been  
10 captured from outside the boundaries of the property on which the  
11 person is located, from an ordinary vantage point, and without the  
12 assistance of the unmanned aircraft.

13 NEW SECTION. **Sec. 2.** The definitions in this section apply  
14 throughout this chapter unless the context clearly requires  
15 otherwise.

16 (1) "Active sensing device" means a sensing device that is  
17 acquiring personal information from its surroundings. A sensing  
18 device is not an "active sensing device" when it is capable of  
19 acquiring personal information from its surroundings, but this  
20 functionality is dormant or has not been activated.

21 (2) "Person" means a natural person.

22 (3) "Personal information" means:

23 (a) Any information that describes, locates, or indexes anything  
24 about a person including, but not limited to, his or her social  
25 security number, driver's license number, agency-issued  
26 identification number, student identification number, real or  
27 personal property holdings derived from tax returns, and his or her  
28 education, financial transactions, medical history, ancestry,  
29 religion, political ideology, or criminal or employment record; or

30 (b) Any image of a person taken from any location in the  
31 Washington state airspace, when the person whose image has been  
32 captured is on private property, the landowner and tenants with a  
33 right to occupy the private property have not consented to the  
34 capture of images of their person on the property, and the taking of  
35 such an image is in violation of the reasonable expectation of  
36 privacy of the person.

37 (4)(a) "Sensing device" means a device capable of acquiring  
38 personal information from its surroundings through any means  
39 including, but not limited to, cameras, thermal detectors,

1 microphones, chemical detectors, radiation gauges, and wireless  
2 receivers in any frequency.

3 (b) "Sensing device" does not include equipment, the sole  
4 function of which is to provide information directly necessary for  
5 safe air navigation or piloting of an unmanned aircraft.

6 (5) "Unmanned aircraft" means an aircraft that is operated  
7 without physical human presence on board the aircraft.

8 (6) "Washington state airspace" means all airspace within the  
9 territorial limits of this state that is within class G airspace and  
10 not otherwise classified as controlled by the federal aviation  
11 administration.

12 NEW SECTION. **Sec. 3.** (1) No person may operate in Washington  
13 state airspace an unmanned aircraft that is equipped with an active  
14 sensing device unless:

15 (a) The federal government has provided specific authorization  
16 for the operation; or

17 (b) The operation complies with each of the conditions  
18 established in section 4 of this act.

19 (2) For purposes of subsection (1) of this section, "specific  
20 authorization" by the federal government includes operation under a  
21 certificate of authorization or other authorization issued pursuant  
22 to the federal aviation administration modernization and reform act  
23 of 2012 (49 U.S.C. 40101), except that it does not include operation  
24 of an unmanned aircraft pursuant to the exemption from regulation for  
25 recreational uses established in the special rule for model aircraft  
26 of the federal aviation administration modernization and reform act  
27 of 2012 (49 U.S.C. 40101 Sec. 336).

28 (3) Nothing in this chapter may be construed as authorizing the  
29 use of, prohibiting the use of, or regulating in any manner the use  
30 of an unmanned aircraft by a public agency.

31 NEW SECTION. **Sec. 4.** Except where specifically authorized by  
32 the federal government, an unmanned aircraft may not be operated in  
33 Washington state airspace unless the following conditions are met:

34 (1) The unmanned aircraft is clearly and conspicuously labeled  
35 with the name and contact information of the aircraft's owner and  
36 operator; and

1 (2) The unmanned aircraft does not have an active sensing device  
2 onboard that collects personal information about any individual  
3 without the individual's consent.

4 NEW SECTION. **Sec. 5.** Any person who violates the requirements  
5 of section 4 of this act with the intent to capture any type of  
6 personal information of another person for an illicit purpose,  
7 including a commercial purpose where the commercial use of the  
8 unmanned aircraft is not compliant with the requirements of the  
9 federal aviation administration modernization and reform act of 2012  
10 or other applicable law, is guilty of a misdemeanor, in addition to  
11 any other penalty provided by law.

12 NEW SECTION. **Sec. 6.** In addition to any other remedies  
13 authorized by law, an individual whose reasonable expectation of  
14 privacy is violated by the use of an unmanned aircraft equipped with  
15 an active sensing device in violation of the requirements of this  
16 chapter may bring an action for damages from the person who committed  
17 the violation. The person may recover actual damages or liquidated  
18 damages of five thousand dollars, whichever is greater, and an award  
19 of costs and reasonable attorneys' fees.

20 NEW SECTION. **Sec. 7.** The remedy provided by this chapter does  
21 not restrict any remedy that is otherwise available. The provisions  
22 of this chapter are not exclusive and are in addition to any other  
23 requirements, rights, remedies, and penalties provided by law.

24 NEW SECTION. **Sec. 8.** Sections 1 through 7 of this act  
25 constitute a new chapter in Title 14 RCW.

26 NEW SECTION. **Sec. 9.** If any provision of this act or its  
27 application to any person or circumstance is held invalid, the  
28 remainder of the act or the application of the provision to other  
29 persons or circumstances is not affected.

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