**A** **BILL**

TO AMEND ARTICLE 7, CHAPTER 11, TITLE 16 OF THE 1976 CODE, RELATING TO TRESPASSES AND UNLAWFUL USE OF LAND OF OTHERS, BY ADDING SECTION 16‑11‑605, TO PROVIDE THAT IT IS UNLAWFUL TO WILFULLY CAUSE OR ALLOW CERTAIN AERIAL VEHICLES, COMMONLY REFERRED TO AS DRONES, TO ENTER UPON OR ABOVE THE LAND OF ANOTHER, TO PROVIDE EXEMPTIONS, AND TO PROVIDE FOR PENALTIES FOR VIOLATIONS; TO AMEND CHAPTER 13, TITLE 17, RELATING TO ARREST, PROCESS, SEARCHES, AND SEIZURES, BY ADDING SECTION 17‑13‑180, TO PROVIDE THAT LAW ENFORCEMENT AGENCIES MAY NOT USE CERTAIN AERIAL VEHICLES, COMMONLY REFERRED TO AS DRONES FOR INVESTIGATIVE PURPOSES WITHOUT A WARRANT, TO PROVIDE FOR EXCEPTIONS, TO PROVIDE FOR A CIVIL CAUSE OF ACTION FOR VIOLATIONS, AND TO PROVIDE THAT EVIDENCE OBTAINED IN VIOLATION OF THIS SECTION IS INADMISSIBLE.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Article 7, Chapter 11, Title 16 of the 1976 Code is amended by adding:

“Section 16‑11‑605. (A) Any person wilfully causing or allowing an unmanned aerial vehicle, an unpiloted aerial vehicle, or a remotely piloted aerial vehicle under his control that is equipped with a camera or a recording device to enter upon or above the lands of another, without the consent of the owner, shall be deemed guilty of a misdemeanor and upon conviction shall, for a first offense, be fined not more than two hundred dollars or imprisoned for not more than thirty days, for a second offense, be fined not less than one hundred dollars nor more than two hundred dollars or imprisoned for not more than thirty days and, for a third or subsequent offense, be fined not less than five hundred dollars nor more than one thousand dollars or imprisoned for not more than six months or both. A first or second offense prosecution resulting in a conviction shall be reported by the magistrate or city recorder hearing the case to the communications and records division of the South Carolina Law Enforcement Division which shall keep a record of such conviction so that any law enforcement agency may inquire into whether or not a defendant has a prior record. Only those offenses which occurred within a period of ten years, including and immediately preceding the date of the last offense, shall constitute prior offenses within the meaning of this section.

(B) The provisions contained in this section do not apply to law enforcement agencies.”

SECTION 2. Chapter 13, Title 17 of the 1976 Code is amended by adding:

“Section 17‑13‑180. (A) A law enforcement agency may not use an unmanned aerial vehicle, an unpiloted aerial vehicle, or a remotely piloted aerial vehicle to gather evidence or other information in this State without a legally issued search warrant pursuant to the provisions of this chapter or another provision of law. However, the provisions of this section do not prohibit the use of a drone:

(1) to counter a high risk of a terrorist attack by a specific individual or organization if the United States Secretary of Homeland Security determines that credible intelligence indicates that there is such a risk;

(2) if the law enforcement agency first obtains a search warrant signed by a judge authorizing the use of a drone; or

(3) if the law enforcement agency possesses reasonable suspicion that, under particular circumstances, swift action is needed to prevent imminent danger to life or serious damage to property, or to forestall the imminent escape of a suspect or the destruction of evidence.

(B) An aggrieved party may bring a civil action against a law enforcement agency to obtain appropriate relief in order to prevent or remedy a violation of this section.

(C) Evidence obtained or collected in violation of the provisions of this section is not admissible as evidence in a criminal prosecution in a court of law in this State.”

SECTION 3. This act takes effect upon approval by the Governor.

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