AS PASSED BY THE SENATE

April 9, 2019

**S. 180**

Introduced by Senator McElveen

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Read the first time January 8, 2019.

**A** **BILL**

TO AMEND ARTICLE 7, CHAPTER 11, TITLE 16 OF THE 1976 CODE, RELATING TO TRESPASSES AND THE UNLAWFUL USE OF THE PROPERTY OF OTHERS, BY ADDING SECTION 16-11-605, TO PROVIDE THAT IT IS UNLAWFUL TO OPERATE AN UNMANNED AERIAL VEHICLE WITHIN A CERTAIN DISTANCE OF A FEDERAL MILITARY INSTALLATION; TO PROVIDE FOR DISPOSITION OF A CONFISCATED UNMANNED AERIAL VEHICLE; TO PROVIDE FOR EXCEPTIONS; AND TO PROVIDE PENALTIES FOR THE VIOLATION.

Amend Title To Conform

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)(1) Except as provided in subsection (D), a person shall not intentionally and willfully operate an unmanned aerial vehicle within a horizontal distance of five hundred feet or a vertical distance of two hundred fifty feet from the flight path of a federal military installation with restricted public access without written consent from the commander of the specific military installation or his designee. If specific approvals have been given, then all flights must meet the requirements set forth by the Federal Aviation Administration for the operation of unmanned aerial vehicles.

(2) Except as provided in subsection (D), a person shall not intentionally and willfully operate an unmanned aerial vehicle within a horizontal distance of five hundred feet of the Savannah River Site without written consent from the manager of the facility or his designee. If specific approvals have been given, then all flights must meet the requirements set forth by the Federal Aviation Administration for the operation of unmanned aerial vehicles.

(B) A person who violates this section is guilty of a misdemeanor and, upon conviction, shall be fined not more than five hundred dollars or imprisoned not more than thirty days, or both.

(C)(1)(a) In addition to the penalty provided in this section, an unmanned aerial vehicle involved in the violation of this section may be confiscated by the specific military installation. Upon confiscation, custody of the unmanned aerial vehicle shall be transferred to a local law enforcement agency pending the outcome of any legal proceedings arising from the violation of this section. (b) An unmanned aerial vehicle must not be disposed of in any manner until the final determination of any legal proceeding arising from the violation of this section or as otherwise required pursuant to Article 3, Chapter 28 of Title 17.

(c) Records must be kept of all confiscated unmanned aerial vehicles received by the law enforcement agency with custody of the unmanned aerial vehicle.

(d) Upon conviction for a violation of this section, the confiscated unmanned aerial vehicle shall be transferred to the State Law Enforcement Division for use within the agency or for destruction. The State Law Enforcement Division may allow the local law enforcement agency with custody of the unmanned aerial vehicle to retain custody upon the local law enforcement agency’s request.

(2)(a) Any unmanned aerial vehicle confiscated pursuant to this section shall be released to an innocent owner. The unmanned aerial vehicle must not be released to the innocent owner until the final determination of any legal proceeding arising from the violation of this section or as otherwise required pursuant to Article 3, Chapter 28 of Title 17.

(b) Before the unmanned aerial vehicle may be released, the innocent owner shall provide the local law enforcement agency with custody of the unmanned aerial vehicle with proof of ownership; shall certify that the innocent owner neither was a consenting party to nor had knowledge of the use of the unmanned aerial vehicle that made it subject to confiscation; and shall certify that the innocent owner will not release the unmanned aerial vehicle to the person who was charged with the violation of this section that resulted in the confiscation of the unmanned aerial vehicle. The local law enforcement agency with custody of the unmanned aerial vehicle shall notify the innocent owner when the unmanned aerial vehicle is available for release. If the innocent owner fails to recover the unmanned aerial vehicle within thirty days after notification of the release, then the unmanned aerial vehicle shall be disposed of as provided in item 1(d) of this subsection.

(D) This section does not apply to any person who:

(1) registers with the Federal Aviation Administration as the operator of a commercial unmanned aerial vehicle;

(2) operates the vehicle for the purpose of monitoring, operating, maintaining, or enhancing electric, communications, water conveyance, or transportation infrastructure or determining if repairs to such infrastructure are necessary; and

(3) notifies the commander of the specific military installation or his designee no more than five days prior to each operation of the vehicle, provided that the notification includes the registration number that the Federal Aviation Administration has issued for the vehicle.

(E) For purposes of this section, ‘federal military installation’ includes, but is not limited to, Fort Jackson, Shaw Air Force Base, Marine Corps Air Station Beaufort, Marine Corps Recruit Depot Parris Island, Joint Base Charleston, McEntire Joint National Guard Base, the United States Coast Guard Stations at Charleston and Georgetown, and any facility, range, or military training route located within the State that is subject to the base commanders’ use, oversight, or control, to include locations where the military conducts other testing and training activities such as tactical landing zones, special use airspace, and terrain flight routes.”

SECTION 2. This act takes effect upon approval by the Governor.

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