

B-Engrossed House Bill 4066

Ordered by the Senate February 24
Including House Amendments dated February 15 and Senate Amendments
dated February 24

Sponsored by Representative HUFFMAN; Representative WHISNANT (Pre-session filed.)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Modifies provisions relating to unmanned aircraft systems, commonly known as drones.
Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to unmanned aircraft systems; creating new provisions; amending ORS 163.700, 164.885,
3 498.128, 837.300, 837.360, 837.365 and 837.380; and declaring an emergency.

4 **Be It Enacted by the People of the State of Oregon:**

DEFINITION OF UNMANNED AIRCRAFT SYSTEM

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8 **SECTION 1.** ORS 837.300 is amended to read:

9 837.300. As used in ORS 837.300 to 837.390 and 837.995:

10 [(1) "*Unmanned aircraft system*" means an unmanned flying machine, commonly known as a drone.
11 "*Unmanned aircraft system*" does not include a model aircraft as defined in section 336 of the FAA
12 Modernization and Reform Act of 2012 (P.L. 112-95) as in effect on July 29, 2013.]

13 (1) "**Aircraft**" has the meaning given that term in ORS 836.005.

14 (2) "Law enforcement agency" means an agency that employs [*police*] **peace** officers, as defined
15 in [ORS 133.525] **ORS 133.005**, or that prosecutes offenses.

16 (3) "Public body" has the meaning given that term in ORS 174.109.

17 (4) "**Unmanned aircraft system**" means an unmanned flying machine, commonly known
18 as a drone, and its associated elements, including communication links and the components
19 that control the machine.

20 [(4)] (5) "Warrant" means a warrant issued under ORS 133.525 to 133.703.

WEAPONIZED UNMANNED AIRCRAFT SYSTEMS

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24 **SECTION 2.** ORS 837.365 is amended to read:

25 837.365. [A public body may not operate an unmanned aircraft system that is capable of firing a
26 bullet or other projectile, directing a laser or otherwise being used as a weapon.] **A person commits**
27 **a Class A misdemeanor if the person intentionally, knowingly or recklessly operates an un-**
28 **manned aircraft system that is capable of firing a bullet or projectile or otherwise operates**

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted.
New sections are in **boldfaced** type.

1 **an unmanned aircraft system in a manner that causes the system to function as a dangerous**
2 **weapon as defined in ORS 161.015.**

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4 **UNMANNED AIRCRAFT SYSTEMS AND AIRCRAFT**

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6 **SECTION 3.** ORS 164.885 is amended to read:

7 164.885. (1) A person commits the crime of endangering aircraft in the first degree if the person
8 knowingly:

9 (a) Throws an object at, or drops an object upon, an aircraft;

10 (b) Discharges a bow and arrow, gun, airgun or firearm at or toward an aircraft;

11 (c) Tamper with an aircraft or a part, system, machine or substance used to operate an aircraft
12 in such a manner as to impair the safety, efficiency or operation of an aircraft without the consent
13 of the owner, operator or possessor of the aircraft; or

14 (d) Places, sets, arms or causes to be discharged a spring gun, trap, explosive device or explosive
15 material with the intent of damaging, destroying or discouraging the operation of an aircraft.

16 (2)(a) Except as provided in paragraph (b) of this subsection, a person commits the crime of en-
17 dangering aircraft in the second degree if the person knowingly possesses a firearm or deadly
18 weapon in a restricted access area of a commercial service airport that has at least 2 million pas-
19 senger boardings per calendar year.

20 (b) Paragraph (a) of this subsection does not apply to a person authorized under federal law or
21 an airport security program to possess a firearm or deadly weapon in a restricted access area.

22 (3)(a) Endangering aircraft in the first degree is a Class C felony.

23 (b) Endangering aircraft in the second degree is a Class A misdemeanor.

24 (4) As used in this section[,]:

25 (a) **“Aircraft” does not include an unmanned aircraft system as defined in ORS 837.300.**

26 (b) **“Restricted access area” means an area of a commercial service airport that is:**

27 [(a)] (A) Designated as restricted in the airport security program approved by the federal
28 Transportation Security Administration; and

29 [(b)] (B) Marked at points of entry with signs giving notice that access to the area is restricted.

30 **SECTION 4. Section 5 of this 2016 Act is added to and made a part of ORS 837.300 to**
31 **837.390.**

32 **SECTION 5. Reckless interference with aircraft; penalty. A person commits a Class A**
33 **violation if the person possesses or controls an unmanned aircraft system and recklessly**
34 **causes the unmanned aircraft system to:**

35 (1) **Direct a laser at an aircraft while the aircraft is in the air;**

36 (2) **Crash into an aircraft while the aircraft is in the air; or**

37 (3) **Prevent the takeoff or landing of an aircraft.**

38
39 **USE OF UNMANNED AIRCRAFT SYSTEMS BY PUBLIC BODIES**

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41 **SECTION 6. Section 7 of this 2016 Act is added to and made a part of ORS 837.300 to**
42 **837.390.**

43 **SECTION 7. Policies and procedures for use of data.** (1) A public body that operates an
44 unmanned aircraft system shall establish policies and procedures for the use, storage, ac-
45 cessing, sharing and retention of data, including but not limited to video and audio re-

1 **cordings, resulting from the operation of the unmanned aircraft system.**

2 **(2) The public body shall post the following information on the public body's website or**
3 **otherwise make the following information available to the public:**

4 **(a) The policies and procedures established under this section.**

5 **(b) The text of ORS 192.501.**

6 **(3) The policies and procedures established under this section must include:**

7 **(a) The length of time data will be retained by the public body.**

8 **(b) Specifications for third party storage of data, including handling, security and access**
9 **to the data by the third party.**

10 **(c) A policy on disclosure of data through intergovernmental agreements.**

11 **SECTION 8.** ORS 837.360 is amended to read:

12 837.360. (1) A public body may not operate an unmanned aircraft system in the airspace over
13 this state without registering the unmanned aircraft system with the Oregon Department of Avi-
14 ation.

15 (2) The Oregon Department of Aviation may impose a civil penalty of up to \$10,000 against a
16 public body that violates subsection (1) of this section.

17 (3) Evidence obtained by a public body through the use of an unmanned aircraft system in vio-
18 lation of subsection (1) of this section is not admissible in any judicial or administrative proceeding
19 and may not be used to establish reasonable suspicion or probable cause to believe that an offense
20 has been committed.

21 (4) The Oregon Department of Aviation shall establish a registry of unmanned aircraft systems
22 operated by public bodies and may charge a fee sufficient to reimburse the department for the
23 maintenance of the registry.

24 (5) The Oregon Department of Aviation shall require the following information for registration
25 of an unmanned aircraft system:

26 (a) The name of the public body that owns or operates the unmanned aircraft system.

27 (b) The name and contact information of the individuals who operate the unmanned aircraft
28 system.

29 (c) Identifying information for the unmanned aircraft system as required by the department by
30 rule.

31 (6) A public body that registers one or more unmanned aircraft systems under this section shall
32 provide an annual report to the Oregon Department of Aviation that *[summarizes]*:

33 (a) **Summarizes** the frequency of use of the unmanned aircraft systems by the public body
34 during the preceding calendar year; *[and]*

35 (b) **Summarizes** the purposes for which the unmanned aircraft systems have been used by the
36 public body during the preceding calendar year*[,]*; **and**

37 (c) **Indicates how the public can access the policies and procedures established under**
38 **section 7 of this 2016 Act.**

39 (7) The State Aviation Board may adopt all rules necessary for the registration of unmanned
40 aircraft systems in Oregon that are consistent with federal laws and regulations.

41 **SECTION 9.** (1) **Section 7 of this 2016 Act and the amendments to ORS 837.360 by section**
42 **8 of this 2016 Act become operative on January 1, 2017.**

43 **(2) A public body may take any action before the operative date specified in subsection**
44 **(1) of this section that is necessary to enable the public body to exercise, on and after the**
45 **operative date specified in subsection (1) of this section, all the duties, functions and powers**

1 conferred on the public body by section 7 of this 2016 Act and the amendments to ORS 837.360
2 by section 8 of this 2016 Act.

3
4 **USE OF UNMANNED AIRCRAFT SYSTEM**
5 **FOR COMMERCIAL PURPOSES**
6

7 **SECTION 10.** ORS 837.380 is amended to read:

8 837.380. (1) Except as provided in [subsection (2)] **subsections (2) and (3)** of this section, a
9 person who owns or lawfully occupies real property in this state may bring an action against any
10 person or public body that operates an unmanned aircraft system that is flown over the property if:

11 (a) The operator of the unmanned aircraft system has flown the unmanned aircraft system over
12 the property on at least one previous occasion; and

13 (b) The person notified the owner or operator of the unmanned aircraft system that the person
14 did not want the unmanned aircraft system flown over the property.

15 (2) A person may not bring an action under this section if:

16 (a) The unmanned aircraft system is lawfully in the flight path for landing at an airport, airfield
17 or runway; and

18 (b) The unmanned aircraft system is in the process of taking off or landing.

19 **(3) A person may not bring an action under this section if the unmanned aircraft system**
20 **is operated for commercial purposes in compliance with authorization granted by the Federal**
21 **Aviation Administration. This subsection does not preclude a person from bringing another**
22 **civil action, including but not limited to an action for invasion of privacy or an action for**
23 **invasion of personal privacy under ORS 30.865.**

24 [(3)] (4) A prevailing plaintiff may recover treble damages for any injury to the person or the
25 property by reason of a trespass by an unmanned aircraft system as described in this section, and
26 may be awarded injunctive relief in the action.

27 [(4)] (5) A prevailing plaintiff may recover attorney fees under ORS 20.080 if the amount pleaded
28 in an action under this section is \$10,000 or less.

29 [(5)] (6) The Attorney General, on behalf of the State of Oregon, may bring an action or claim
30 for relief alleging nuisance or trespass arising from the operation of an unmanned aircraft system
31 in the airspace over this state. A court shall award reasonable attorney fees to the Attorney Gen-
32 eral if the Attorney General prevails in an action under this section.

33 **SECTION 11.** ORS 163.700 is amended to read:

34 163.700. (1) Except as provided in ORS 163.702, a person commits the crime of invasion of per-
35 sonal privacy in the second degree if:

36 (a)(A) For the purpose of arousing or gratifying the sexual desire of the person, the person is
37 in a location to observe another person in a state of nudity without the consent of the other person;
38 and

39 (B) The other person is in a place and circumstances where the person has a reasonable ex-
40 pectation of personal privacy; or

41 (b)(A) The person knowingly makes or records a photograph, motion picture, videotape or other
42 visual recording of another person's intimate area without the consent of the other person; and

43 (B) The person being recorded has a reasonable expectation of privacy concerning the intimate
44 area.

45 (2) As used in this section and ORS 163.701:

1 (a) "Intimate area" means nudity, or undergarments that are being worn by a person and are
2 covered by clothing.

3 (b) "Makes or records a photograph, motion picture, videotape or other visual recording" in-
4 cludes, but is not limited to[,]:

5 (A) Making or recording or employing, authorizing, permitting, compelling or inducing another
6 person to make or record a photograph, motion picture, videotape or other visual recording.

7 (B) **Making or recording a photograph, motion picture, videotape or other visual record-**
8 **ing through the use of an unmanned aircraft system as defined in ORS 837.300, even if the**
9 **unmanned aircraft system is operated for commercial purposes in compliance with authori-**
10 **zation granted by the Federal Aviation Administration.**

11 (c) "Nudity" means any part of the uncovered or less than opaquely covered:

12 (A) Genitals;

13 (B) Pubic area; or

14 (C) Female breast below a point immediately above the top of the areola.

15 (d) "Places and circumstances where the person has a reasonable expectation of personal pri-
16 vacy" includes, but is not limited to, a bathroom, dressing room, locker room that includes an en-
17 closed area for dressing or showering, tanning booth and any area where a person undresses in an
18 enclosed space that is not open to public view.

19 (e) "Public view" means that an area can be readily seen and that a person within the area can
20 be distinguished by normal unaided vision when viewed from a public place as defined in ORS
21 161.015.

22 (f) "Reasonable expectation of privacy concerning the intimate area" means that the person in-
23 tended to protect the intimate area from being seen and has not exposed the intimate area to public
24 view.

25 (3) Invasion of personal privacy in the second degree is a Class A misdemeanor.

26
27 **CRITICAL INFRASTRUCTURE FACILITIES**

28
29 **SECTION 12. Section 13 of this 2016 Act is added to and made a part of ORS 837.300 to**
30 **837.390.**

31 **SECTION 13. (1) As used in this section, "critical infrastructure facility" means any of**
32 **the following facilities, if completely enclosed by a fence or other physical barrier that is**
33 **obviously designed to exclude intruders, or if marked with a sign conspicuously posted on the**
34 **property that indicates that entry is forbidden:**

35 (a) **A petroleum or alumina refinery;**

36 (b) **An electrical power generating facility, substation, switching station or electrical**
37 **control center;**

38 (c) **A chemical, polymer or rubber manufacturing facility;**

39 (d) **A water intake structure, water treatment facility, wastewater treatment plant or**
40 **pump station;**

41 (e) **A natural gas compressor station;**

42 (f) **A liquid natural gas terminal or storage facility;**

43 (g) **A telecommunications central switching office;**

44 (h) **A port, railroad switching yard, trucking terminal or other freight transportation**
45 **facility;**

- 1 (i) A gas processing plant, including a plant used in the processing, treatment or
- 2 fractionation of natural gas;
- 3 (j) A transmission facility used by a federally licensed radio or television station;
- 4 (k) A steelmaking facility that uses an electric arc furnace to make steel;
- 5 (L) A dam that is classified as a high hazard by the Water Resources Department;
- 6 (m) Any portion of an aboveground oil, gas or chemical pipeline that is enclosed by a
- 7 fence or other physical barrier that is obviously designed to exclude intruders; or
- 8 (n) A correctional facility or law enforcement facility.

9 (2) Except as provided in subsection (3) of this section, a person commits a Class A vio-

10 lation if the person intentionally or knowingly:

11 (a) Operates an unmanned aircraft system over a critical infrastructure facility at an

12 altitude not higher than 400 feet above ground level; or

13 (b) Allows an unmanned aircraft system to make contact with a critical infrastructure

14 facility, including any person or object on the premises of or within the facility.

15 (3) This section does not apply to:

16 (a) The federal government.

17 (b) A public body.

18 (c) A law enforcement agency.

19 (d) A person under contract with or otherwise acting under the direction or on behalf

20 of the federal government, a public body or a law enforcement agency.

21 (e) An owner or operator of the critical infrastructure facility.

22 (f) A person who has the prior written consent of the owner or operator of the critical

23 infrastructure facility.

24 (g) The owner or occupant of the property on which the critical infrastructure facility

25 is located.

26 (h) A person who has the prior written consent of the owner or occupant of the property

27 on which the critical infrastructure facility is located.

28 (i) A person operating an unmanned aircraft system for commercial purposes in compli-

29 ance with authorization granted by the Federal Aviation Administration.

30

31 **CONFORMING AMENDMENTS**

32

33 **SECTION 14.** ORS 498.128 is amended to read:

34 498.128. (1) The State Fish and Wildlife Commission shall adopt rules prohibiting the use of

35 drones for the following purposes related to the pursuit of wildlife:

36 (a) Angling;

37 (b) Hunting;

38 (c) Trapping;

39 (d) Aiding angling, hunting or trapping through the use of drones to harass, track, locate or

40 scout wildlife; and

41 (e) Interfering in the acts of a person who is lawfully angling, hunting or trapping.

42 (2) Rules adopted to carry out the prohibitions provided for in this section may include ex-

43 emptions for:

44 (a) Subject to ORS 837.360 [and 837.365], the State Department of Fish and Wildlife and the

45 department's agents and contractors for the use of drones in carrying out the duties of the depart-

1 ment; or

2 (b) The use of drones in a manner otherwise prohibited under this section if the purpose of the
3 use is to benefit wildlife management or habitat or for the protection of property.

4 (3) Nothing in this section is meant to limit the use of drones by a person who is lawfully en-
5 gaging in activities authorized under the commercial fishing laws.

6 (4) As used in this section, "drone" means:

7 (a) An unmanned flying machine;

8 (b) An unmanned water-based vehicle; or

9 (c) Any other vehicle that is able to operate in the air, in or under the water or on land, either
10 remotely or autonomously, and without a human occupant.

11
12 **CAPTIONS**

13
14 **SECTION 15. The unit and section captions used in this 2016 Act are provided only for**
15 **the convenience of the reader and do not become part of the statutory law of this state or**
16 **express any legislative intent in the enactment of this 2016 Act.**

17
18 **EMERGENCY CLAUSE**

19
20 **SECTION 16. This 2016 Act being necessary for the immediate preservation of the public**
21 **peace, health and safety, an emergency is declared to exist, and this 2016 Act takes effect**
22 **on its passage.**

23 _____