



2021 South Dakota Legislature

Senate Bill 74

SENATE TRANSPORTATION ENGROSSED

Introduced by: **Senator David Johnson**

1 **An Act to revise certain provisions regarding drones.**

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

3 **Section 1.** That § 22-21-1 be AMENDED.

4 **22-21-1. Eavesdropping--Privacy--Misdemeanor.**

5 No person may, except as authorized by law:

6 (1) Trespass on property with intent to subject anyone to eavesdropping or other
7 surveillance in a private place; or

8 (2) Install in any private place, without the consent of the person or persons entitled
9 to privacy there, any device for observing, photographing, recording, amplifying, or
10 broadcasting sounds or events in such place, or uses any such unauthorized
11 installation;

12 ~~(3) Intentionally use a drone to photograph, record, or otherwise observe another~~
13 ~~person in a private place where the person has a reasonable expectation of privacy;~~
14 ~~or~~

15 ~~(4) Land a drone on the lands or waters of another resident provided the resident owns~~
16 ~~the land beneath the water body in its entirety without the owner's consent, except~~
17 ~~in the case of forced landing and the owner or lessee of the drone will be liable for~~
18 ~~any damage resulting from a forced landing.~~

19 A person who violates this section is guilty of a Class 1 misdemeanor. ~~Subdivisions~~
20 ~~(2) and (3) do~~ Subdivision (2) does not apply to law enforcement officers, or to those
21 acting under the direction of a law enforcement officer, while engaged in the performance
22 of the officer's lawful duties. ~~Subdivisions (3) and (4) do not~~ apply to a drone operator
23 operating a drone for bona fide business or bona fide government purposes who
24 unintentionally or incidentally photographs, records, or otherwise observes another person
25 in a private place, nor do they apply to a designated emergency management worker
26 operating a drone within the scope of the worker's duties.

1 **Section 2.** That a NEW SECTION be added:

2 **50-15-5. Eavesdropping--Violation of privacy--Misdemeanor.**

3 No person may, except as authorized by law, intentionally use a drone to
4 photograph, record, or otherwise observe another person in a private place where the
5 person has a reasonable expectation of privacy. A person who violates this section is guilty
6 of a Class 1 misdemeanor.

7 This section does not apply to:

- 8 (1) Law enforcement officers, or to those acting under the direction of a law
9 enforcement officer, while engaged in the performance of the officer's lawful
10 duties;
11 (2) A drone operator operating a drone for bona fide business or bona fide government
12 purposes who unintentionally or incidentally photographs, records, or otherwise
13 observes another person in a private place; or
14 (3) A designated emergency management worker operating a drone within the scope
15 of the worker's duties.

16 **Section 3.** That a NEW SECTION be added:

17 **50-15-6. Trespassing--Drone--Misdemeanor.**

18 No person may, except as authorized by law, land a drone on the real property or
19 the waters of a landowner who owns the real property beneath the water body, without
20 the landowner's consent. It is an affirmative defense if the landing was a forced landing,
21 but in the case of forced landing, the owner or lessee of the drone remains liable for any
22 damage resulting from a forced landing. A person who violates this section is guilty of a
23 Class 1 misdemeanor.