



2024 South Dakota Legislature

Senate Bill 169

SENATE TRANSPORTATION ENGROSSED

Introduced by: **Senator Johnson**

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

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

3 **Section 1. That a NEW SECTION be added to chapter 50-15:**

4 No person may intentionally or willfully operate a drone in a careless manner that
 5 endangers persons or property, or for voyeuristic or harassment purposes. A person who
 6 violates this section is guilty of a Class 1 misdemeanor.

7 **Section 2. That § 50-15-6 be AMENDED:**

8 **50-15-6.** No person may, except as authorized by law, land a drone on the real or
 9 personal property or the waters of a landowner who owns the real property beneath the
 10 water body, without the landowner's consent. It is an affirmative defense if the landing
 11 was a forced landing or if the landing was caused by a technical malfunction, but in ~~the~~
 12 ~~case of forced landing, the owner or lessee~~ either case, the operator of the drone remains
 13 liable for any damage resulting from ~~a forced~~ the landing. A person who violates this
 14 section is guilty of a Class 1 misdemeanor.

15 **Section 3. That chapter 50-15 be amended with a NEW SECTION:**

16 A person, in compliance with federal aviation regulations, may operate a drone for
 17 recreational purposes within the state. A person or business entity, doing business lawfully
 18 within the state and in compliance with federal aviation regulations, may operate or use
 19 a drone for commercial purposes within this state. Except as otherwise specifically allowed
 20 by this title, the state, or any political subdivision thereof, may not enact or enforce an
 21 ordinance regarding:

22 (1) Ownership, operation, design, manufacture, testing, maintenance, licensing,
 23 registration, certification, or equipment requirements of an uncrewed aircraft
 24 system;

- 1 (2) Airspace, altitude, or flight path restrictions; or
2 (3) Qualifications, training, or certification of a pilot, operator, or observer of a
3 drone.

4 **Section 4. That chapter 50-15 be amended with a NEW SECTION:**

5 The operation of a drone, in compliance with federal aviation regulations, in the
6 airspace over this state does not, standing alone, give rise to legal liability under the laws
7 of this state or its political subdivisions.

8 **Section 5. That a NEW SECTION be added to chapter 50-15:**

9 Consistent with the provisions of this chapter, a drone may be the instrumentality
10 by which a tort in violation of privacy rights or trespass laws may be committed under
11 federal or state law.

12 **Section 6. That a NEW SECTION be added to chapter 50-15:**

13 A political subdivision may enact or enforce ordinances that relate to the operation
14 of a drone within the political subdivision's jurisdiction that are consistent with federal and
15 state law. This section does not limit the authority of a political subdivision to adopt an
16 ordinance that enforces federal restrictions or to adopt or enforce an ordinance that relates
17 to the operation of a drone by or on behalf of the political subdivision or that is owned by
18 the political subdivision. Any ordinance that violates this section, whether enacted or
19 adopted by a political subdivision before or after the date of enactment of this statute, is
20 null.

21 **Section 7. That a NEW SECTION be added to chapter 50-15:**

22 Takeoff or landing of a drone within a controlled access facility, as defined in § 31-
23 8-1, is prohibited, except by a state agency or state agent.

24 Takeoff or landing within any other public highway right-of-way is prohibited if the
25 takeoff or landing is performed carelessly or in a manner causing endangerment to any
26 person or property.

27 A person who violates this section is guilty of a Class 1 misdemeanor.

28 **Section 8. That chapter 50-15 be amended with a NEW SECTION:**

29 Nothing in this chapter may be construed to prohibit the:

- 1 (1) Take-off or landing of a drone as deemed reasonable or necessary by private or
2 public entities for emergency or maintenance support functions or services,
3 including the protection and maintenance of public or private critical infrastructure;
4 (2) Landing of a drone by an operator in compliance with Federal Aviation
5 Administration regulations as deemed reasonable or necessary by the operator in
6 the event of a forced landing or technical malfunction of a drone system;
7 (3) Take-off or landing of a drone being operated by a sworn public safety officer or
8 other emergency personnel in the performance of the officer or personnel's duties;
9 or
10 (4) Take-off or landing of a drone owned or operated by the United States government,
11 or any operator under contract with any agency of the United States government,
12 in the performance of the operator's assigned duties.

13 **Section 9. That a NEW SECTION be added to chapter 50-15:**

14 Nothing in this title shall preempt or intrude upon the exclusive sovereignty of
15 airspace of the United States as set forth in 49 U.S.C. § 40103. Any interpretation or
16 application of any provision of this title that contradicts the exclusive authority of the
17 United States government to regulate the operation of a drone in the airspace of the
18 United States, is null.