HOUSE DOCKET, NO. 595 FILED ON: 1/13/2023

HOUSE . . . . . No. 3429

The Commonwealth of Massachusetts

PRESENTED BY:

William M. Straus and Michael F. Rush

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to unmanned aerial systems.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
William M. Straus	*10th Bristol*	*1/13/2023*
Michael F. Rush	*Norfolk and Suffolk*	*1/13/2023*

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HOUSE . . . . . No. 3429

By Representative Straus of Mattapoisett and Senator Rush, a joint petition (accompanied by bill, House, No. 3429) of William M. Straus and Michael F. Rush relative to unmanned aerial systems. Transportation.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. *3609* OF 2021-2022.]

The Commonwealth of Massachusetts

In the One Hundred and Ninety-Third General Court
(2023-2024)

An Act relative to unmanned aerial systems.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Chapter 90 of the General Laws, as appearing in the 2016 official edition, is hereby amended by adding the following section:-

"Section 63(a). As used in this section the following terms shall, unless the context clearly requires otherwise, have the following meanings:-

"Operate", to pilot, fly, control, direct, or program the flight of an unmanned aircraft system.

"Unmanned Aircraft System" or "UAS", an unmanned aerial vehicle and associated elements and support equipment required for the safe and efficient operation of the UAV, including but not limited to, communications links and components that control the UAV.

"Unmanned Aerial Vehicle", "UAV", or "drone", a powered aerial vehicle that:

(a) Does not carry a human operator and is operated without the possibility of direct human intervention from within or on the aircraft;

(b) Uses aerodynamic forces to provide vehicle lift;

(c) Can fly autonomously or be piloted remotely;

(d) Can be expendable or recoverable; and

(e) Weighs less than 55lbs.

(b) No municipality shall enact or enforce any ordinance regulating the operation of UAVs and UASs except as otherwise authorized by regulation or guideline promulgated by the Federal Aviation Administration or the laws of this commonwealth.

(c) (1) No person shall operate or permit to be operated, any UAS or UAV in violation of any FAA rule or regulation within the commonwealth. Whoever violates the provisions of this paragraph shall be punished by a fine of not more than one-hundred dollars.

(2) A law enforcement officer who observes a violation of an FAA rule or regulation committed by an operator of a UAS or UAV may request the offender to state their true name and address. Whoever, upon such request, refuses to state their name and address or whoever states a false name and address, or a name and address not in the ordinary use shall be punished by a fine of not less than twenty dollars nor more than fifty dollars. An offender who refuses to state their true name and address may be arrested without a warrant for such refusal, but no person shall be arrested without a warrant for any other FAA rule or regulation violation committed while operating a UAS or UAV.

(d) (1) No person shall equip or operate a UAS or UAV armed with a weapon capable of causing serious bodily injury or death or is otherwise capable of firing or releasing a projectile designed to cause serious bodily injury or death. Persons convicted of unauthorized operation of a UAS or UAV under this paragraph shall be punished by a fine of not more than two-thousand dollars or by imprisonment in a house of correction for not more than one year or both. Federal, state, and municipal public safety explosive ordinance personnel are exempted from this provision for the limited purpose of use of UAS or UAV for the disposal of explosive ordinance.

(2) No person shall operate a UAS or UAV in a manner so as to interfere with or disrupt the flight of manned aircraft, or otherwise impede the normal course of operations of any international, regional, municipal, or general aviation airport. Persons convicted of unauthorized operation of a UAS or UAV under this paragraph shall be punished by a fine of not more than one-thousand five-hundred dollars or by imprisonment in a house of correction for not more than one year or both. Unauthorized operation of a UAS or UAV under this paragraph which results in damage to a manned aircraft in flight or causes said aircraft to crash shall be punished by a fine of not more than ten-thousand dollars or by imprisonment in a house of correction for not more than two and one-half years or both.

(3) No person shall knowingly or intentionally operate a UAS or UAV so as to interfere with or impede first responders or law enforcement actively responding to an emergency. Persons convicted of unauthorized operation of a UAS or UAV under this paragraph shall be punished by a fine of not more than one-thousand dollars, or by imprisonment in a house of correction for not more than six months, or both.

(e) No person shall operate a UAS or UAV for the purpose of conducting surveillance or observation of an individual, their private real property, or dwelling inclusive of the curtilage without said individual's consent. Improper use of a UAS or UAV under this paragraph shall be deemed a violation of section 1B of chapter 214 of the General Laws. Notwithstanding the provisions of this subsection, use of UASs or UAVs by law enforcement for observational or surveillance purposes is permitted:

(i) if the law enforcement agency first obtains a search warrant authorizing the use of a UAS or UAV;

(ii) to counter the risk of a terrorist incident if the United States Secretary for Homeland Security or the Secretary of the Executive Office of Public Safety and Security determines credible intelligence exists indicating the risk of a terrorist incident;

(iii) if the law enforcement agency possesses reasonable suspicion under the circumstances that use of a UAS or UAV is necessary to prevent imminent danger to life, to conduct a pursuit of an escapee or suspect, or to facilitate a search for a missing person; or

(iv) to document a crime scene or crash scene for investigative, evidentiary, or crash reconstruction purposes.

(f)(1) Notwithstanding any general or special law or regulation to the contrary, a law enforcement agency in possession of images, footage, data, or recordings captured from the use of a UAS or UAV shall permanently erase or destroy or cause to be destroyed all images, footage, data, or recordings captured from a UAS or UAV not later than 120 days following the date on which the images, footage, data, or recordings were captured.

(2) The law enforcement agency may retain said UAS or UAV images, footage, data, or recordings beyond 120 days if such information contains evidence of a crime or is relevant to an ongoing investigation or judicial proceeding.

(g) If any part of this section is for any reason held to be unconstitutional, preempted, or invalid, such decision shall not affect the remainder of this section.