**1093-S.E AMS LAW S2812.1 - NOT FOR FLOOR USE**

**ESHB 1093** - S COMM AMD

By Committee on Law & Justice

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec.**  The legislature finds that technological developments in unmanned aircraft have expanded the vehicles' capacity to be widely deployed in our state and in our communities. The legislature further finds that while the federal aviation administration modernization and reform act of 2012 establishes a regulatory framework for the use of unmanned aircraft by public agencies and commercial entities, the recreational use of certain small unmanned aircraft outside of federally controlled airspace is exempt from federal regulation. The potential for these small unmanned aircraft to be operated in close proximity to human dwellings and activities presents opportunities for widespread recreational use and enjoyment. At the same time, the recreational use of unmanned aircraft in Washington state airspace increases the likelihood of physical trespass onto private property and invasions of personal privacy. The legislature intends to protect personal privacy by prohibiting the use of unmanned aircraft equipped with sensing devices that collect personal information, including images of individuals on private property that could not have been captured without the assistance of the unmanned aircraft.

The legislature finds and declares that except as otherwise required by the first amendment of the United States Constitution, the reasonable expectation of privacy of a person whose image has been captured, when the person is on private property and the landowner and tenants with a right to occupy the private property have not consented to the capture of images of the person on the property, has been violated when the image could not have been captured from outside the boundaries of the property on which the person is located, from an ordinary vantage point, and without the assistance of the unmanned aircraft.

NEW SECTION. **Sec.**  The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Active sensing device" means a sensing device that is acquiring personal information from its surroundings. A sensing device is not an "active sensing device" when it is capable of acquiring personal information from its surroundings, but this functionality is dormant or has not been activated.

(2) "Person" means a natural person.

(3) "Personal information" means:

(a) Any information that describes, locates, or indexes anything about a person including, but not limited to, his or her social security number, driver's license number, agency-issued identification number, student identification number, real or personal property holdings derived from tax returns, and his or her education, financial transactions, medical history, ancestry, religion, political ideology, or criminal or employment record; or

(b) Any image of a person taken from any location in the Washington state airspace, when the person whose image has been captured is on private property, the landowner and tenants with a right to occupy the private property have not consented to the capture of images of their person on the property, and the taking of such an image is in violation of the reasonable expectation of privacy of the person.

(4)(a) "Sensing device" means a device capable of acquiring personal information from its surroundings through any means including, but not limited to, cameras, thermal detectors, microphones, chemical detectors, radiation gauges, and wireless receivers in any frequency.

(b) "Sensing device" does not include equipment, the sole function of which is to provide information directly necessary for safe air navigation or piloting of an unmanned aircraft.

(5) "Unmanned aircraft" means an aircraft that is operated without physical human presence on board the aircraft.

(6) "Washington state airspace" means all airspace within the territorial limits of this state that is within class G airspace and not otherwise classified as controlled by the federal aviation administration.

NEW SECTION. **Sec.**  (1) No person may operate an unmanned aircraft in Washington state airspace that is equipped with an active sensing device unless:

(a) The federal government has provided specific authorization for the operation; or

(b) The operation complies with each of the conditions established in section 4 of this act.

(2) For purposes of subsection (1) of this section and section 4 of this act, "specific authorization" by the federal government includes authorization issued pursuant to the federal aviation administration modernization and reform act of 2012 (49 U.S.C. 40101) or other federal authority establishing that the operation is lawful and permitted under federal law, except that "specific authorization" does not include operation of an unmanned aircraft pursuant to the exemption from regulation for recreational uses established in the special rule for model aircraft of the federal aviation administration modernization and reform act of 2012 (49 U.S.C. 40101 Sec. 336).

(3) Nothing in this chapter may be construed as authorizing the use of, prohibiting the use of, or regulating in any manner the use of an unmanned aircraft by a public agency.

NEW SECTION. **Sec.**  An unmanned aircraft may not be operated in Washington state airspace unless the following conditions are met:

(1) The unmanned aircraft has specific authorization from the federal government, as defined in section 3 of this act; or

(2) The unmanned aircraft is clearly and conspicuously labeled with the name and contact information of the aircraft's owner and operator and does not have an active sensing device onboard that collects personal information about any individual without the individual's consent.

NEW SECTION. **Sec.**  Any person who violates the requirements of section 4 of this act with the intent to capture any type of personal information of another person for an illicit purpose, including a commercial purpose where the commercial use of the unmanned aircraft is not compliant with the requirements of the federal aviation administration modernization and reform act of 2012 or other applicable law, is guilty of a misdemeanor, in addition to any other penalty provided by law.

NEW SECTION. **Sec.**  In addition to any other remedies authorized by law, an individual whose reasonable expectation of privacy is violated by the use of an unmanned aircraft equipped with an active sensing device in violation of the requirements of this chapter may bring an action for damages from the person who committed the violation. The person may recover actual damages or liquidated damages of five thousand dollars, whichever is greater, and an award of costs and reasonable attorneys' fees.

NEW SECTION. **Sec.**  The remedy provided by this chapter does not restrict any remedy that is otherwise available. The provisions of this chapter are not exclusive and are in addition to any other requirements, rights, remedies, and penalties provided by law.

NEW SECTION. **Sec.**  Sections 1 through 7 of this act constitute a new chapter in Title 14 RCW.

NEW SECTION. **Sec.**  Nothing in this act shall be construed to apply to activities including but not limited to agriculture, forestry, logging, fishing, construction, transportation, utilities, manufacturing, and other lawful activities that may use unmanned aircraft with active sensing devices.

NEW SECTION. **Sec.**  If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected."

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On page 1, line 1 of the title, after "aircraft;" strike the remainder of the title and insert "adding a new chapter to Title 14 RCW; creating a new section; and prescribing penalties."

EFFECT: Adds a new section clarifying that nothing in this act shall be construed to apply to activities including but not limited to agriculture, forestry, logging, fishing, construction, transportation, utilities, manufacturing, and other lawful activities that may use unmanned aircraft with active sensing devices.