

House File 388 - Introduced

HOUSE FILE 388

BY WULF

A BILL FOR

1 An Act prohibiting the use of remotely piloted aircraft flying
2 over certain property, and providing penalties.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. 715D.1 Definitions.

2 As used in this chapter:

3 1. "*Agricultural animal*" means an animal belonging to
4 the bovine, caprine, equine, ovine, or porcine species; farm
5 deer as defined in section 170.1; ostriches, rheas, or emus;
6 turkeys, chickens, domestic geese or ducks, or other domestic
7 fowl; or fish or other aquatic organisms confined in private
8 waters for human consumption.

9 2. a. "*Convicted*" means the entry of a judgment of
10 conviction under chapter 901 or adjudicated delinquent for an
11 act which is an indictable offense in this state or in another
12 state under chapter 232.

13 b. "*Convicted*" does not mean a plea, sentence, adjudication,
14 deferred sentence, or deferred judgment which has been reversed
15 or otherwise set aside.

16 3. "*Homestead*" means property which is a dwelling owned or
17 leased by a person that is used as the principal residence for
18 a person and includes up to four hundred feet of surrounding
19 property owned or leased by the person.

20 4. "*Remotely piloted aircraft*" means a self-propelled
21 vehicle used for navigation and flight, that is controlled by
22 the use of an electronic system and is not designed to carry a
23 human.

24 5. a. "*Secure farmstead area*" means property owned or
25 leased by a person where agricultural animals are confined
26 and fed and maintained for forty-five days or more in any
27 twelve-month period, and includes up to four hundred feet of
28 surrounding property owned or leased by the person.

29 b. "*Secure farmstead area*" includes an open feedlot as
30 defined in section 459A.102, or a structure, including a barn
31 or similar building, used to maintain agricultural animals.

32 6. "*Surveillance device*" means a camera or electronic
33 equipment that transmits or records images, sounds, or data
34 if the transmission or recording is capable of reasonably
35 identifying any of the following:

1 *a.* The identity, physical appearance, conduct, or voice of
2 an individual.

3 *b.* The species of an agricultural animal.

4 *c.* The unique physical characteristics of land or an
5 improvement to land.

6 Sec. 2. NEW SECTION. 715D.2 Intrusion by use of remotely
7 piloted aircraft — offense.

8 1. A person commits intrusion by the use of a remotely
9 piloted aircraft if the person knowingly does any of the
10 following:

11 *a.* Controls the flight of a remotely piloted aircraft over a
12 homestead.

13 *b.* Controls the flight of remotely piloted aircraft over a
14 secure farmstead area.

15 2. *a.* A person who commits intrusion by the use of a
16 remotely piloted aircraft is guilty of a simple misdemeanor.

17 *b.* Notwithstanding paragraph “*a*”, a person who commits
18 intrusion by the use of a remotely piloted aircraft is guilty
19 of a serious misdemeanor if the person has previously been
20 convicted of any of the following:

21 (1) Intrusion by the use of a remotely piloted aircraft as
22 provided in this section.

23 (2) Surveillance by the use of a remotely piloted aircraft
24 as provided in section 715D.3.

25 Sec. 3. NEW SECTION. 715D.3 Surveillance by use of remotely
26 piloted aircraft — offense.

27 1. A person commits surveillance by the use of a remotely
28 piloted aircraft if the person knowingly does any of the
29 following:

30 *a.* Controls the flight of a remotely piloted aircraft
31 equipped with a surveillance device over a homestead.

32 *b.* Controls the flight of a remotely piloted aircraft
33 equipped with a surveillance device over a secure farmstead
34 area.

35 2. *a.* A person who commits surveillance by the use of a

1 remotely piloted aircraft is guilty of a serious misdemeanor.

2 *b.* Notwithstanding paragraph "a", a person who commits
3 surveillance by the use of a remotely piloted aircraft
4 is guilty of an aggravated misdemeanor if the person has
5 previously been convicted of any of the following:

6 (1) Intrusion by the use of a remotely piloted aircraft as
7 provided in section 715D.2.

8 (2) Surveillance by the use of a remotely piloted aircraft
9 as provided in this section.

10 Sec. 4. NEW SECTION. 715D.4 **Injunctive relief —**
11 **harassment.**

12 1. A person who is the owner or lessee of a homestead or
13 secure farmstead area may petition the district court to obtain
14 an order for a temporary injunction to prevent the respondent
15 from using any remotely piloted aircraft equipped with a
16 surveillance device, if a preponderance of evidence indicates
17 that the respondent is harassing the petitioner by controlling
18 the flight of the remotely piloted aircraft over the person's
19 homestead or secure farmstead area. The court shall grant
20 the temporary injunction for not more than two years. The
21 court may continue the injunction upon a petition filed by the
22 petitioner with the court prior to the order's expiration.

23 2. If a court grants an order for a temporary injunction
24 under subsection 1, the court may award the petitioner court
25 costs, reasonable attorney fees, and expenses related to the
26 petitioner's investigation and adjudication of the case, which
27 shall be taxed as part of the costs of the action.

28 Sec. 5. NEW SECTION. 715D.5 **Exceptions.**

29 This chapter does not prohibit a person controlling the
30 flight of a remotely piloted aircraft as provided in this
31 chapter if the person is any of the following:

32 1. A person who acts with the consent of the owner of the
33 homestead or secure farmstead area.

34 2. A department, division, or other unit of state government
35 of this state or any other state, city, county, township, or

1 other governmental subdivision, or any other public corporation
2 or agency created under the laws of this state, any other
3 state, the United States, or any department or agency thereof,
4 or any agency, commission, or authority established pursuant to
5 an interstate compact or agreement or combination thereof.

6 3. A public utility as defined in section 476.1.

7 4. A person who controls the flight of a remotely piloted
8 aircraft more than four hundred feet from the earth's surface.

9 5. A person who controls the flight of a remotely piloted
10 aircraft for the exclusive purpose of collecting information
11 regarding weather or climate conditions.

12 EXPLANATION

13 The inclusion of this explanation does not constitute agreement with
14 the explanation's substance by the members of the general assembly.

15 GENERAL. This bill prohibits the use of remotely piloted
16 aircraft (RPA) flying over a homestead or that part of a
17 farmstead where agricultural animals are kept (secured
18 farmstead area).

19 TERMS. An RPA refers to a self-propelled vehicle used
20 for navigation and flight, is controlled by the use of an
21 electronic system, and is not designed to carry a human. A
22 homestead includes a dwelling owned or leased by a person that
23 is used as the principal residence for a person and includes
24 up to 400 feet of surrounding property owned or leased by that
25 person. A secure farmstead area refers to an open feedlot,
26 building, or other structure and includes up to 400 feet of
27 surrounding property. A surveillance device refers to a camera
28 or electronic equipment that transmits or records images,
29 sounds, or data; and that is capable of reasonably identifying
30 an individual, agricultural animal, or unique physical
31 characteristics of land or an improvement.

32 CRIMINAL OFFENSES. The bill creates two related criminal
33 offenses. A person commits intrusion by the use of an RPA
34 (intrusion) by knowingly controlling the flight of an RPA over
35 a homestead or secure farmstead area and a person commits

1 surveillance by the use of an RPA (surveillance) by controlling
2 the flight of an RPA equipped with a surveillance device over
3 those same locations. In each case, a criminal penalty is
4 enhanced if a person has been previously convicted of either
5 offense. In the case of a person committing intrusion, the
6 penalty is a simple misdemeanor subject to an enhanced penalty
7 of a serious misdemeanor and in the case of a person committing
8 surveillance the penalty is a serious misdemeanor subject to
9 an enhanced penalty of an aggravated misdemeanor. A simple
10 misdemeanor is punishable by confinement for no more than 30
11 days and a fine of at least \$105 but not more than \$855. A
12 serious misdemeanor is punishable by confinement for no more
13 than one year and a fine of at least \$430 but not more than
14 \$2,560. An aggravated misdemeanor is punishable by confinement
15 for no more than two years and a fine of at least \$855 but not
16 more than \$8,540.

17 INJUNCTIVE RELIEF — HARASSMENT. An owner or lessee of a
18 homestead or secure farmstead area may bring a case in district
19 court as a petitioner in equity seeking to obtain a temporary
20 injunction to prevent the other party as the respondent from
21 harassing the petitioner by controlling the flight of an RPA
22 over the petitioner's homestead or secure farmstead area.
23 The temporary injunction is for not more than two years but
24 is subject to a court ordered continuance. A successful
25 petitioner may be awarded court costs, attorney fees, and
26 expenses.

27 EXCEPTIONS. The bill's provisions do not apply to a number
28 of persons including a person acting with the consent of the
29 owner of the homestead or secure farmstead area, a unit of
30 government, a public utility, a person who controls the flight
31 of an RPA more than 400 feet from the earth's surface, or a
32 person who controls the flight of an RPA for the purpose of
33 collecting information regarding weather or climate conditions.