

115TH CONGRESS
2D SESSION

H. R. 5366

To amend title 18, United States Code, to provide for certain authorized actions regarding interdiction of unmanned aircraft, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 21, 2018

Mrs. HARTZLER (for herself, Mr. AUSTIN SCOTT of Georgia, and Ms. HANABUSA) introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committees on Transportation and Infrastructure, and Homeland Security, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend title 18, United States Code, to provide for certain authorized actions regarding interdiction of unmanned aircraft, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Safeguarding Amer-
5 ica’s Skies Act of 2018”.

1 **SEC. 2. AUTHORIZED ACTIONS REGARDING INTERDICTION**
2 **OF UNMANNED AIRCRAFT.**

3 (a) IN GENERAL.—Chapter 1 of part I of title 18,
4 United States Code, is amended by adding at the end of
5 the following:

6 **“SEC. 28. AUTHORIZED ACTIONS REGARDING INTERDIC-**
7 **TION OF UNMANNED AIRCRAFT.**

8 “(a) IN GENERAL.—Notwithstanding any other pro-
9 vision of this title, except as described in paragraph (1),
10 the Secretary of Homeland Security and the Attorney
11 General may, for their respective departments, authorize
12 officers, employees, and contractors of the department as-
13 signed with duties that include safety, security, or protec-
14 tion of personnel, facilities, or assets of the department,
15 to take such actions described in subsection (b) that are
16 necessary to mitigate the threat (as defined by the Sec-
17 retary of Homeland Security and the Attorney General,
18 in consultation with the Secretary of Transportation) that
19 an unauthorized UAV poses to the safety or security of
20 a covered facility or asset. In taking such actions, the
21 agency shall—

22 “(1) avoid any infringement of the privacy and
23 civil rights of the people of the United States and
24 the freedom of the press consistent with the First
25 and Fourth Amendments, including with regard to

1 the testing of any equipment and the interception or
2 acquisition of communications;

3 “(2) limit the geographic reach and the dura-
4 tion of such actions to only those areas and time-
5 frames that are reasonably necessary to address a
6 reasonable threat; and

7 “(3) use reasonable care not to interfere with
8 non-targeted manned or unmanned aircraft, commu-
9 nications, equipment, facilities, or services.

10 “(b) ACTIONS AUTHORIZED.—

11 “(1) ACTIONS DESCRIBED.—The actions de-
12 scribed in this subsection are as follows:

13 “(A) Detect, identify, monitor, and track,
14 without prior consent, a UAV, including by
15 means of interception of or other access to wire,
16 oral, electronic, or radio communications or sig-
17 nals transmitted to or by the UAV, to evaluate
18 whether the UAV poses a reasonable threat to
19 the safety or security of a covered facility or
20 asset.

21 “(B) Warn the operator of the UAV, in-
22 cluding by passive or active, and direct or indi-
23 rect physical, electronic, radio, and electro-
24 magnetic means.

1 “(C) Redirect, alter control, disable, dis-
2 rupt, seize, or confiscate, without prior consent,
3 a UAV that poses a reasonable threat as deter-
4 mined under subsection (a), including by inter-
5 cepting, substituting, or disrupting wire, oral,
6 electronic, or radio communications or signals
7 transmitted to or by UAV.

8 “(D) Use reasonable force to disable, dis-
9 rupt, damage, or destroy a small unmanned air-
10 craft, unmanned aircraft system, unmanned air-
11 craft, or unmanned aircraft’s attached system,
12 payload, or cargo that poses a reasonable threat
13 to the safety or security of a covered facility or
14 asset.

15 “(E) Conduct research, testing, training
16 on, or evaluation of any equipment, including
17 any electronic equipment, to determine its capa-
18 bility and utility to enable.

19 “(2) REGULATIONS AND GUIDANCE.—The Sec-
20 retary of Homeland Security and the Attorney Gen-
21 eral, in coordination with the Secretary of Transpor-
22 tation, may make rules and shall issue guidance in
23 their respective areas to carry out this section.

24 “(3) AVOIDANCE OF DUPLICATION.—The Sec-
25 retary of Homeland Security, the Attorney General,

1 and the Secretary of Transportation shall coordinate
2 and avoid duplication in the development of guid-
3 ance under this paragraph or otherwise imple-
4 menting this section.

5 “(4) MINIMIZATION OF HARMFUL INTER-
6 FERENCE.—The Secretary of Homeland Security,
7 the Attorney General, and the Secretary of Trans-
8 portation shall also coordinate with the Federal
9 Communications Commission and the National Tele-
10 communications and Information Administration to
11 ensure that all actions taken and guidance and rules
12 made under this subsection minimize harmful inter-
13 ference to licensed and unlicensed communications,
14 devices, and services authorized by the Federal Com-
15 munications Commission.

16 “(5) FINAL RULE REGARDING REMOTE IDENTI-
17 FICATION AND TRACKING OF UAVS.—Not later than
18 one year after the effective date of this section the
19 Secretary of Transportation shall issue a final rule
20 requiring remote identification and tracking of
21 UAVs, including UAVs for recreational use, to en-
22 sure that cooperative aircraft are identified.

23 “(c) FORFEITURE.—Any UAV described in sub-
24 section (a) that is seized by the Federal agency is subject
25 to forfeiture to the United States.

1 “(d) EXEMPTION FROM DISCLOSURE.—Information
2 pertaining to the technology, procedures, and protocols
3 used to carry out this section, including any regulations
4 or guidance issued to carry out this section, shall be ex-
5 empt from disclosure under section 552(b)(3) of title 5
6 and exempt from disclosure under State and local law re-
7 quiring the disclosure of information.

8 “(e) PRIVACY PROTECTION.—All actions taken and
9 guidance and rules made under subsection (b)(2) shall en-
10 sure that—

11 “(1) the interception or acquisition of or access
12 to communications to or from UAV under this sec-
13 tion is conducted in a manner consistent with the
14 Fourth Amendment to the Constitution and applica-
15 ble provisions of Federal law;

16 “(2) communications are intercepted, acquired,
17 or accessed only to the extent necessary to mitigate
18 the reasonable threat that an unmanned aircraft
19 system or unmanned aircraft poses to the safety or
20 security of a covered facility or asset;

21 “(3) records of such communications are main-
22 tained only for as long as necessary and in no event
23 for more than 180 days unless the Secretary of
24 Homeland Security or the Attorney General reason-
25 ably determine that maintenance of such records—

1 “(A) is necessary to support one or more
2 safety or security functions of the Department
3 of Homeland Security or the Department of
4 Justice, respectively; or

5 “(B) is required for a longer period to sup-
6 port a law enforcement agency or by any other
7 applicable law or regulation; and

8 “(4) such communications are not disclosed
9 outside the Department of Homeland Security or the
10 Department of Justice unless the disclosure, subject
11 to paragraph (a)(1) above—

12 “(A) would fulfill a safety or security func-
13 tion of the Department of Homeland Security
14 or the Department of Justice;

15 “(B) would support the Department of De-
16 fense, a civilian law enforcement agency, or the
17 enforcement activities of a regulatory agency of
18 the Federal Government in connection with a
19 criminal or civil investigation of, or any regu-
20 latory action with regard to, an action described
21 in subsection (b)(1); or

22 “(C) is otherwise required by law or regu-
23 lation.

24 “(f) SCOPE OF AUTHORITY.—Nothing in this section
25 shall be construed to provide the Secretary of Homeland

1 Security or the Attorney General additional authorities be-
2 yond those described in (b)(1) without authorization by
3 law.

4 “(g) REPORT TO CONGRESS.—The Attorney General
5 and Secretary of Homeland Security, shall each submit
6 to Congress, not later than one year after enactment, and
7 each year thereafter, a report that shall include, at min-
8 imum—

9 “(1) a description of actions taken, guidance
10 provided, and rules made pursuant to this section,
11 including a summary of public comments submitted
12 in relation to such guidance or rules;

13 “(2) a description of each Department’s efforts
14 to address privacy, civil rights, and civil liberties
15 issues implicated by the actions permitted by this
16 section and other Federal and State government
17 policies affecting UAVs;

18 “(3) the number of UAVs that have been sub-
19 ject to each of the actions taken under subsection
20 (b)(2), broken out by action;

21 “(4) actions taken by each Department to in-
22 form the public of covered facilities and assets au-
23 thorized by this section;

24 “(5) implementation costs; or

1 “(6) a description of any revisions to this sec-
2 tion that may be desirable.

3 “(h) DEFINITIONS.—In this section:

4 “(1) The term ‘cooperative aircraft’ means air-
5 craft that have an electronic means of identification
6 aboard in operation.

7 “(2) The term ‘covered facility or asset’ means
8 any facility or asset that—

9 “(A) is identified by the Secretary of
10 Homeland Security or the Attorney General;

11 “(B) is located in the United States (in-
12 cluding the territories and possessions of the
13 United States): and

14 “(C) relates to—

15 “(i) the buildings and grounds leased,
16 owned, or operated by or for the Federal
17 Government, including Federal Facility
18 protection operations;

19 “(ii) authorized protective operations,
20 including but not limited to the protection
21 of Federal jurists, court officers, witnesses,
22 and other persons;

23 “(iii) penal, detention, correctional,
24 and judicial operations;

1 “(iv) National Security Special
2 Events, Special Event Assessment Ratings
3 Events, or other mass gatherings or events
4 that are reasonably assessed by the De-
5 partment of Justice to be a potential tar-
6 get for terrorism or other criminal activity;

7 “(v) active Federal law enforcement
8 investigations;

9 “(vi) operations that counter ter-
10 rorism, narcotics, and transnational crimi-
11 nal organizations;

12 “(vii) securing authorized vessels,
13 whether moored or underway;

14 “(viii) protection operations pursuant
15 to section 3056;

16 “(ix) critical infrastructure;

17 “(x) Emergency Response Operations;

18 “(xi) National Disaster Areas if it is
19 determined by the Secretary of Homeland
20 Security that unauthorized access to the
21 airspace would restrict recovery efforts;

22 “(xii) Natural or Hazardous Disaster
23 Areas if it is determined by the Secretary
24 of Homeland Security that unauthorized

1 access to the airspace would restrict recov-
2 ery efforts; and

3 “(xiii) other areas identified by the
4 President.

5 “(3) The term ‘UAV’ means a small unmanned
6 aircraft, unmanned aircraft system, unmanned air-
7 craft, or unmanned aircraft’s attached system, pay-
8 load, or cargo.

9 “(4) The terms ‘unmanned aircraft’, ‘small un-
10 manned aircraft’, and ‘unmanned aircraft system’
11 have the meanings given those terms in section 331
12 of the FAA Modernization and Reform Act of 2012
13 (Public Law 112–95; 49 U.S.C. 40101 note).

14 “(5) The terms ‘intercept’ and ‘wire, oral, elec-
15 tronic, or radio communications’ have the meaning
16 given those terms in section 2510.

17 “(6) The term ‘critical infrastructure’ has the
18 meaning given that term in section 2339D except
19 that the Attorney General may, in his or her deter-
20 mination, amend the definition for purposes of this
21 section in the issuance of any guidance or rules
22 made under subsection (b)(2).”.

23 (b) CLERICAL AMENDMENT.—The table of sections
24 for such chapter is amended by adding at the end the fol-
25 lowing:

“28. Authorized actions regarding interdiction of unmanned aircraft.”.

1 (c) CONFORMING AMENDMENTS.—Title 18, United
2 States Code, is amended—

3 (1) in section 32, by adding at the end the fol-
4 lowing:

5 “(d) Nothing in this section shall apply to any action
6 lawfully taken under section 28.”;

7 (2) in section 1030, by adding at the end the
8 following:

9 “(k) Nothing in this section shall apply to any action
10 lawfully taken under section 28.”;

11 (3) in section 1362 by adding at the end the
12 following:

13 “Nothing in this section shall apply to any action
14 lawfully taken under section 28.”;

15 (4) in section 1367, by adding at the end the
16 following:

17 “(c) Nothing in this section shall apply to any action
18 lawfully taken under section 28.”;

19 (5) in chapter 119—

20 (A) by adding at the end the following:

21 **“§ 2523. Exception for interdiction of unmanned air-**
22 **craft**

23 “Nothing in this chapter shall apply in the case of
24 any action lawfully taken under section 28.”; and

1 (B) in the table of sections for such chap-
 2 ter, by adding at the end the following:

“2523. Exception for interdiction of unmanned aircraft.”;

3 and

4 (6) in chapter 206—

5 (A) by adding at the end the following:

6 **“§ 3128. Exception for interdiction of unmanned air-**
 7 **craft**

8 “Nothing in this chapter shall apply in the case of
 9 any action lawfully taken under section 28.”; and

10 (B) in the table of sections for such chap-
 11 ter, by adding at the end the following:

“3128. Exception for interdiction of unmanned aircraft.”.

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