AN ACT TO REGULATE UNMANNED AIRCRAFT SYSTEMS; TO DEFINE TERMS; TO PROVIDE CAUSES OF ACTION IN TORT FOR UNLAWFUL USE OF UNMANNED AIRCRAFT SYSTEMS; TO PROVIDE FOR CRIMINAL USE OF UNMANNED AIRCRAFT SYSTEMS; TO DECLARE AIRSPACE TO BE REAL PROPERTY VESTED IN THE SEVERAL OWNERS OF THE SURFACE BENEATH; TO PROVIDE AN AVIATION EASEMENT FOR FLIGHT IN AIRCRAFT IN PRIVATE AIRSPACE; TO PROHIBIT CREATION OF PRESCRIPTIVE RIGHTS; TO AUTHORIZE THE DEPARTMENT OF TRANSPORTATION TO LEASE INTEREST IN A RIGHT-OF-WAY OR AIRSPACE ABOVE OR BELOW A STATE HIGHWAY; TO PREEMPT LOCAL GOVERNMENTS FROM REGULATING THE OPERATION OF NONRECREATIONAL UNMANNED AIRCRAFT SYSTEMS; TO PROVIDE EXCEPTIONS FOR LAW ENFORCEMENT AND PUBLIC AGENCY OPERATIONS; TO PROVIDE PRIVACY PROTECTIONS FOR INDIVIDUAL CITIZENS; TO PROVIDE IMMUNITY FOR EMERGENCY RESPONDERS FOR CERTAIN DAMAGES; TO PROHIBIT SABOTAGE OR DESTRUCTION OF PUBLIC SERVICE UNMANNED AIRCRAFT SYSTEMS; TO REQUIRE THE ATTORNEY GENERAL TO DEVELOP A PUBLIC INFORMATION CAMPAIGN; TO REQUIRE THE TRANSPORTATION COMMISSION AND OTHER ENTITIES TO PERFORM CERTAIN DUTIES; AND FOR RELATED PURPOSES

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Short title. This act shall be known and referred to as the "Mississippi Unmanned Aircraft Systems Act of 2021."

SECTION 2. Definitions. For the purposes of this act, unless otherwise specified, the following words shall have the meaning ascribed herein unless the context otherwise requires:
(a) "Airspace" means the space above the land and waters of this state.

(b) "Commission" means the Mississippi Transportation Commission.

(c) "Department" means the Mississippi Department of Transportation.

(d) An "unmanned aircraft" means an aircraft that is constructed or operated without the possibility of direct human intervention from within or on the aircraft, including every object that is on board or otherwise attached to the aircraft, or carried or operated during flight, regardless of weight. For the purposes of this act, this term is synonymous with the term "drone."

(e) An "unmanned aircraft system" means an unmanned aircraft and all associated elements, including, but not limited to, communication links, sensing devices and components that control the unmanned aircraft.

SECTION 3. Torts and crimes generally. (1) This act applies to the operations of all unmanned aircraft systems and the acts of those who own, control or operate such systems, or are affected by such operations.

(2) An unmanned aircraft system is an instrumentality by which a tort can be committed under the laws of this state.

(3) An unmanned aircraft system is an instrumentality by which a crime can be committed under the laws of this state.
(4) The criminal statutes of this state shall apply to any person who owns, controls or operates unmanned aircraft within this state, or to any other person liable under the criminal laws of this state.

SECTION 4. Airspace is real property vested with landowners.

(1) Airspace shall be real property and is vested in the several owners of the surface beneath.

(2) Subject to the provisions of this act, possession, ownership and transfer of airspace shall be subject to the same statutes, rules of law and common law as other real property. All rights and liabilities which apply to titles, estates and interests in real property shall apply to airspace.

(3) Nothing in this section shall amend, supersede or infringe the exercise of rights, privileges and immunities otherwise granted by statutory or common law.

SECTION 5. Avigation easement. (1) Flight in aircraft in private airspace is lawful, unless the flight is at such a low altitude as to interfere with the then-existing use to which the land or water, or the air over the land or water, is put by the owner, or unless the flight is conducted as to be imminently dangerous to persons or property lawfully on the land or water beneath.

(2) The landing of an aircraft on the lands or waters of another, without the owner's consent, is unlawful. This subsection shall not apply to forced or emergency landings.
SECTION 6. Prescriptive right. Repeated or continual operation of an unmanned aircraft over a landowner's or lessee's real property does not create a prescriptive right in the airspace.

SECTION 7. Department authorized to lease airspace. (1) The department may lease a portion of a right-of-way or airspace above or below a state highway or public waterway if the department determines that the interest to be leased will not be needed for a separate highway purpose during the term of the lease. The department may place such restrictions, conditions and qualifications on the use of any leased interest as it determines to be necessary to provide for:

(a) The safety and adequacy of highway facilities; and
(b) The protection of abutting or adjacent land users.

(2) The department shall have the power to partition separate levels of airspace over or under the same location and lease different levels to different parties.

(3) A lease under this section may be for any purpose that is not inconsistent with applicable highway use.

(4) (a) Revenues from any transaction under this section shall be deposited in the General fund.
(b) The department shall not charge less than fair market value for any interest leased under this section.

SECTION 8. County and municipal preemption. Except as expressly authorized by statute, a political subdivision shall not
enact or enforce an ordinance, resolution, regulation or policy that regulates the ownership or operation of nonrecreational unmanned aircraft or otherwise engage in the regulation of the ownership or operation of nonrecreational unmanned aircraft systems. Any ordinance, resolution, regulation or policy of any county or municipality of this state regulating the ownership or operation of nonrecreational unmanned aircraft shall be deemed preempted and shall be null, void and of no force or effect.

SECTION 9. Law enforcement and public agency operation.

Nothing in this act shall be deemed to prohibit the operation of an unmanned aircraft system by a law enforcement agency for any lawful purposes in this state. A public agency may operate an unmanned aircraft system only if the public agency operates the unmanned aircraft system in accordance with the rules and regulations adopted by the Federal Aviation Administration.

SECTION 10. Privacy protection. Law enforcement agencies may surveil citizens in public spaces with unmanned aircraft only to the extent permissible by state law or the rules and regulations of any political subdivision of the state, whichever is more restrictive. An individual's health information collected, stored or disseminated as a result of surveillance under this section shall comply with the provisions found in 45 C.F.R. § 160.

SECTION 11. Emergency responder immunity. (1) An emergency responder and his or her employer or employing agency shall be
immune from civil liability for any damage caused to an unmanned aircraft or unmanned aircraft system if:

(a) Such damage was caused while the emergency responder was engaged in providing emergency services; and

(b) The emergency responder reasonably believed that the unmanned aircraft was interfering with the provision of such emergency services.

(2) For the purposes of this section:

(a) Emergency responder includes, but is not limited to, a law enforcement officer, a firefighter, an ambulance driver and emergency medical personnel. Emergency responder includes any full-time or part-time paid, volunteer or auxiliary employee of this state or another state, of any division of this state or another state, of the federal government, or of any agency or organization performing emergency management services in this state subject to the order or control of, or pursuant to a request of, a state, a division or the federal government; and

(b) Emergency services include, but are not limited to, firefighting services, police services, medical and health services, search and rescue services, emergency hazardous materials response, emergency evacuation of persons, emergency welfare services, emergency transportation services, restoration of public utility services, and other functions related to the protection of the public.
SECTION 12. Sabotage or destruction. (1) It shall be unlawful for a person to purposefully or knowingly sabotage, damage or intend to sabotage or damage an unmanned aircraft system operated by a law enforcement, emergency service or fire department, or any other public agency, including an unmanned aircraft system operated on behalf of the agency.

(2) Any person who violates subsection (1) of this section is guilty of a felony and shall be punished by confinement in the custody of the Department of Corrections for not less than three (3) years nor more than fifteen (15) years, a fine of not more than Twenty-five Thousand Dollars ($25,000.00), or both.

SECTION 13. Public information campaign. The Attorney General of this state shall develop a multi-media campaign to inform Mississippi citizens of developments in the field of drone technology and of the implementation of drones into law enforcement agencies across the state.

SECTION 14. Duties of commission and support. (1) The commission shall have the following duties:

(a) To provide advice to other departments and agencies of this state concerning the use of unmanned aircraft systems and related technology;

(b) To provide advice to the public concerning the following:

(i) Regulation of unmanned aircraft systems by the federal government and by this state;
(ii) Safe-operating principles for unmanned aircraft systems;

(iii) Restrictions on the use of unmanned aircraft systems; and

(iv) Any other matters within the scope of the commission's authority under this act;

(c) To provide education and information to departments and agencies of this state, political subdivisions, and the general public about unmanned aircraft systems;

(d) To receive and consider comments from persons in this state who are interested in or affected by the use of unmanned aircraft systems.

(2) The departments and agencies of this state shall provide support to the commission as necessary and as requested for the commission to perform its duties under this act. In addition to the commission's provision of support through its department, the following agencies shall provide primary support to the commission:

(a) The Department of Public Safety;

(b) The Department of Wildlife, Fisheries and Parks;

(c) The Department of Corrections; and

(d) The Department of Agriculture and Commerce.

(3) (a) The commission shall direct its department to study a "Commercial Drone Airway" in Class G airspace, above which
nonrecreational unmanned aircraft systems shall be permitted to operate without interference of recreational unmanned aircraft.

(b) The commission shall direct its department, in conjunction with the Department of Health, to study a "Healthcare Drone Transportation Network" in Class G airspace, above which unmanned aircraft systems shall be permitted to transport medical supplies, medical samples, and organs between healthcare facilities throughout the State of Mississippi.

SECTION 15. The provisions of this act shall apply unless preempted by applicable federal law or by regulations adopted by the Federal Aviation Administration.

SECTION 16. This act shall take effect and be in force from and after July 1, 2021.