

By: Senator(s) Wiggins

To: Judiciary, Division A

SENATE BILL NO. 2262

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

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

20 **SECTION 1. Short title.** This act shall be known and  
21 referred to as the "Mississippi Unmanned Aircraft Systems Act of  
22 2021."

23 **SECTION 2. Definitions.** For the purposes of this act,  
24 unless otherwise specified, the following words shall have the  
25 meaning ascribed herein unless the context otherwise requires:



26 (a) "Airspace" means the space above the land and  
27 waters of this state.

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

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

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

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

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

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

49 (3) An unmanned aircraft system is an instrumentality by  
50 which a crime can be committed under the laws of this state.



51 (4) The criminal statutes of this state shall apply to any  
52 person who owns, controls or operates unmanned aircraft within  
53 this state, or to any other person liable under the criminal laws  
54 of this state.

55 **SECTION 4. Airspace is real property vested with landowners.**

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

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

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

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

73 (2) The landing of an aircraft on the lands or waters of  
74 another, without the owner's consent, is unlawful. This  
75 subsection shall not apply to forced or emergency landings.



76           **SECTION 6. Prescriptive right.** Repeated or continual  
77 operation of an unmanned aircraft over a landowner's or lessee's  
78 real property does not create a prescriptive right in the  
79 airspace.

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

88                   (a) The safety and adequacy of highway facilities; and

89                   (b) The protection of abutting or adjacent land users.

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

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

95           (4) (a) Revenues from any transaction under this section  
96 shall be deposited in the General fund.

97                   (b) The department shall not charge less than fair  
98 market value for any interest leased under this section.

99           **SECTION 8. County and municipal preemption.** Except as  
100 expressly authorized by statute, a political subdivision shall not



101 enact or enforce an ordinance, resolution, regulation or policy  
102 that regulates the ownership or operation of nonrecreational  
103 unmanned aircraft or otherwise engage in the regulation of the  
104 ownership or operation of nonrecreational unmanned aircraft  
105 systems. Any ordinance, resolution, regulation or policy of any  
106 county or municipality of this state regulating the ownership or  
107 operation of nonrecreational unmanned aircraft shall be deemed  
108 preempted and shall be null, void and of no force or effect.

109 **SECTION 9. Law enforcement and public agency operation.**

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

116 **SECTION 10. Privacy protection.** Law enforcement agencies

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

124 **SECTION 11. Emergency responder immunity.** (1) An emergency

125 responder and his or her employer or employing agency shall be



126 immune from civil liability for any damage caused to an unmanned  
127 aircraft or unmanned aircraft system if:

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

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

133 (2) For the purposes of this section:

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

143 (b) Emergency services include, but are not limited to,  
144 firefighting services, police services, medical and health  
145 services, search and rescue services, emergency hazardous  
146 materials response, emergency evacuation of persons, emergency  
147 welfare services, emergency transportation services, restoration  
148 of public utility services, and other functions related to the  
149 protection of the public.



150           **SECTION 12. Sabotage or destruction.** (1) It shall be  
151 unlawful for a person to purposefully or knowingly sabotage,  
152 damage or intend to sabotage or damage an unmanned aircraft system  
153 operated by a law enforcement, emergency service or fire  
154 department, or any other public agency, including an unmanned  
155 aircraft system operated on behalf of the agency.

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

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

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

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

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

173           (i) Regulation of unmanned aircraft systems by the  
174 federal government and by this state;



175                   (ii) Safe-operating principles for unmanned  
176 aircraft systems;

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

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

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

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

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

193           (a) The Department of Public Safety;

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

195           (c) The Department of Corrections; and

196           (d) The Department of Agriculture and Commerce.

197           (3) (a) The commission shall direct its department to study  
198 a "Commercial Drone Airway" in Class G airspace, above which





199 nonrecreational unmanned aircraft systems shall be permitted to  
200 operate without interference of recreational unmanned aircraft.

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

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

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

