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## States' Unmanned Aerial Vehicle Laws: *Delaware*



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# A National Agricultural Law Center Research Publication

## States' Unmanned Aerial Vehicle Laws: Delaware

### **DE ST TI 11 § 1256**

### **DE ST TI 11 § 1334**

*Current through November 6, 2022*

#### **DE ST TI 11 § 1256 Promoting Prison Contraband; Class F Felony; Class A Misdemeanor**

- (a) A person is guilty of promoting prison contraband when:
- (1) The person knowingly and unlawfully introduces any contraband into a detention facility; or
  - (2) The person possesses with intent to deliver any contraband to any person confined within a detention facility; or
  - (3) Being a person confined in a detention facility, the person knowingly and unlawfully makes, obtains or possesses any contraband.
- (b) Promoting prison contraband is a class A misdemeanor. However, promoting prison contraband is a class F felony if any of the following applies:
- (1) The prison contraband is a deadly weapon, cellular telephone, or any prohibited electronic device not specifically authorized or approved by the Commissioner or designee, any illegal narcotic or look-a-like substance, or any prescription medication, or any item or article that could be used to facilitate an escape.
  - (2) An unmanned aircraft system is used to deliver or attempt to deliver any of the following into a detention facility
    - a. Contraband, as defined by § 1258 of this title.
    - b. Any of the contraband listed in paragraph (b)(1) of this section.

#### **DE ST TI 11 § 1334 Unlawful Use of an Unmanned Aircraft System; Unclassified Misdemeanor; Class B Misdemeanor; Class A Misdemeanor**

- (a) *Definitions.*--The following terms shall have the following meanings as used in this section.
- (1) "Critical infrastructure" means petroleum refineries, petroleum storage facilities, chemical storage facilities, chemical manufacturing facilities, fuel storage facilities, electric substations, power plants, electric generation facilities, military facilities, commercial port and harbor facilities, rail



- yard facilities, drinking water treatment or storage facilities, correctional facilities, government buildings, and public safety buildings or facilities.
- (2) “First responder” means federal, state, and local law-enforcement officers, fire, and emergency medical services personnel, hazardous materials response team members, 9-1-1 dispatchers, or any individual who is responsible for the protection and preservation of life and is directed to respond to an incident that could result in death or serious injury.
- (3) “Unmanned aircraft system” means a powered, aerial vehicle that:
- a. Does not carry a human operator;
  - b. Uses aerodynamic forces to provide vehicle lift;
  - c. Can fly autonomously or be piloted remotely; and
  - d. Can be expendable or recoverable.
- (b) *Prohibited acts.*--Except as provided in this section, no person shall knowingly operate, direct, or program an unmanned aircraft system to fly:
- (1) Over any sporting event, concert, automobile race, festival, or other event at which more than 1500 people are in attendance; or
  - (2) Over any critical infrastructure; or
  - (3) Over any incident where first responders are actively engaged in response or air, water, vehicular, ground, or specialized transport; or
  - (4) So as to subject another person, who is on private property, to harassment in violation of § 1311(a) of this title; or
  - (5) So as to invade the privacy of another person, who is on private property, in violation of § 1335(a)(1), (2), (3), (4), or (6) of this title; or
  - (6) So as to violate or fail to obey any provision of a protective order issued by any of the following:
    - a. The Family Court.
    - b. A court of any state, territory, or Indian nation in the United States, as long as such violation or failure to obey occurs in Delaware.
    - c. A court of Canada, as long as such violation or failure to obey occurs in Delaware.
- (c) *Exemptions.*--The prohibitions set forth in subsection (b) of this section shall not apply to:
- (1) An unmanned aircraft system used for law enforcement purposes; or
  - (2) An unmanned aircraft system flying over property where written permission has been granted by the property owner or occupier; or
  - (3) An unmanned aircraft system operated by an institution of higher education for educational purposes in compliance with Federal Aviation Administration regulations; or
  - (4) An unmanned aircraft system that is being used for a commercial or other purpose if the operator is authorized by the Federal Aviation Administration.
- (d) *Penalties.*--Except as set forth in § 1256 of this title, unlawful use of an unmanned aircraft system is an unclassified misdemeanor for a first offense and a class B misdemeanor for a second or subsequent offense, except that in any case where physical injury to a person or damage to property occurs as a



result of a violation of this section unlawful use of an unmanned aircraft system is a class A misdemeanor.

(e) *Preemption.*--Only the State may enact a law or take any other action to prohibit, restrict, or regulate the testing or operation of an unmanned aircraft systems in the State. This section preempts the authority of a county or municipality to prohibit, restrict, or regulate the testing or operating of unmanned aircraft systems and supersedes any existing law or ordinance of a county or municipality that prohibits, restricts, or regulates the testing or operating of unmanned aircraft systems.

