

**As Introduced**

**131st General Assembly**

**Regular Session**

**2015-2016**

**H. B. No. 228**

**Representative Cupp**

**Cosponsors: Representatives Grossman, Hambley, Becker, Thompson, Ruhl,  
Schaffer, Conditt, Phillips, Blessing, Hackett, O'Brien, M., Amstutz, Buchy**

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**A BILL**

To amend sections 2981.01 and 2981.02 and to enact  
section 2917.48 of the Revised Code to prohibit  
the commission of any of a list of specified  
offenses by using a drone or by directing or  
supervising another person's use of a drone.

**BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:**

**Section 1.** That sections 2981.01 and 2981.02 be amended  
and section 2917.48 of the Revised Code be enacted to read as  
follows:

**Sec. 2917.48.** (A) As used in this section:

(1) "Drone" means a powered, aerial device to which all of  
the following apply:

(a) It does not carry a human operator and is operated  
without the possibility of direct human intervention from within  
or on the device.

(b) It uses aerodynamic forces to provide the device lift.

(c) It can fly autonomously or be piloted remotely.

(d) It can be expendable or recoverable. 17

(2) "Specified offense" means a violation of section 18  
2903.21, 2903.211, 2903.22, 2907.08, 2909.05, 2909.06, 2909.07, 19  
2909.08, 2909.081, 2909.09, 2909.10, 2909.101, 2909.24, 2911.11, 20  
2911.12, 2911.13, 2917.11, 2917.12, 2917.13, 2917.31, 2917.33, 21  
2921.31, or 2921.35 of the Revised Code. 22

(B) (1) No person shall commit a specified offense by using 23  
a drone or by directing or supervising another person's use of a 24  
drone. 25

(2) The prohibition set forth in division (B) (1) of this 26  
section is a strict liability offense; however, the degree of 27  
culpability required to commit the underlying specified offense 28  
is the degree of culpability specified in the section 29  
establishing the specified offense. Strict liability is a 30  
culpable mental state for purposes of section 2901.20 of the 31  
Revised Code. 32

(C) Whoever violates division (B) of this section is 33  
guilty of "engaging in criminal activity through use of a 34  
drone," an unclassified felony, and the court shall sentence the 35  
offender as follows: 36

(1) The court shall sentence the offender for the 37  
specified offense that the offender committed and that is the 38  
element of the offender's violation of division (B) of this 39  
section. 40

(2) As part of the sentence imposed under division (C) (1) 41  
of this section, the court shall impose a mandatory fine from 42  
the range of fines set forth in section 2929.18 or 2929.28 of 43  
the Revised Code for the degree of the specified offense 44  
described in division (C) (1) of this section. 45

(3) The court shall order the criminal forfeiture to the state, in accordance with Chapter 2981. of the Revised Code, of the drone used in the violation of division (B) of this section. 46  
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(D) Division (B) of this section does not limit or affect the application of any other prohibition in the Revised Code. Any act that is a violation of both division (B) of this section and another provision of the Revised Code may be prosecuted under this section, under the other provision of the Revised Code, or under both this section and the other provision of the Revised Code. 49  
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(E) Division (B) of this section does not limit or restrict a lawfully authorized investigative, law enforcement, protective, or intelligence gathering employee or agent of the government of this state, a political subdivision of this state, or the federal government, when acting in an official capacity, from using a drone or directing or supervising another person's use of a drone. 56  
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**Sec. 2981.01.** (A) Forfeitures under this chapter shall be governed by all of the following purposes: 63  
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(1) To provide economic disincentives and remedies to deter and offset the economic effect of offenses by seizing and forfeiting contraband, proceeds, and certain instrumentalities; 65  
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(2) To ensure that seizures and forfeitures of instrumentalities are proportionate to the offense committed; 68  
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(3) To protect third parties from wrongful forfeiture of their property; 70  
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(4) To prioritize restitution for victims of offenses. 72

(B) As used in this chapter: 73

(1) "Aircraft" has the same meaning as in section 4561.01 of the Revised Code.	74 75
(2) "Computers," "computer networks," "computer systems," "computer software," and "telecommunications device" have the same meanings as in section 2913.01 of the Revised Code.	76 77 78
(3) "Financial institution" means a bank, credit union, savings and loan association, or a licensee or registrant under Chapter 1321. of the Revised Code.	79 80 81
(4) "Firearm" and "dangerous ordnance" have the same meanings as in section 2923.11 of the Revised Code.	82 83
(5) "Innocent person" includes any bona fide purchaser of property that is subject to forfeiture, including any person who establishes a valid claim to or interest in the property in accordance with section 2923.04 of the Revised Code, and any victim of an alleged offense.	84 85 86 87 88
(6) "Instrumentality" means property otherwise lawful to possess that is used in or intended to be used in an offense. An "instrumentality" may include, but is not limited to, a firearm, a mobile instrumentality, a computer, a computer network, a computer system, computer software, a telecommunications device, money, and any other means of exchange.	89 90 91 92 93 94
(7) "Law enforcement agency" includes, but is not limited to, the state board of pharmacy, the enforcement division of the department of taxation, the Ohio casino control commission, and the office of the prosecutor.	95 96 97 98
(8) "Mobile instrumentality" means an instrumentality that is inherently mobile and used in the routine transport of persons. "Mobile instrumentality" includes, but is not limited to, any vehicle, any watercraft, and any aircraft.	99 100 101 102

(9) "Money" has the same meaning as in section 1301.201 of the Revised Code. 103  
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(10) "Offense" means any act or omission that could be charged as a criminal offense or a delinquent act, whether or not a formal criminal prosecution or delinquent child proceeding began at the time the forfeiture is initiated. Except as otherwise specified, an offense for which property may be forfeited includes any felony and any misdemeanor. The commission of an "offense" includes the commission of a delinquent act. 105  
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(11) "Proceeds" means both of the following: 113

(a) In cases involving unlawful goods, services, or activities, "proceeds" means any property derived directly or indirectly from an offense. "Proceeds" may include, but is not limited to, money or any other means of exchange. "Proceeds" is not limited to the net gain or profit realized from the offense. 114  
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(b) In cases involving lawful goods or services that are sold or provided in an unlawful manner, "proceeds" means the amount of money or other means of exchange acquired through the illegal transactions resulting in the forfeiture, less the direct costs lawfully incurred in providing the goods or services. The lawful costs deduction does not include any part of the overhead expenses of, or income taxes paid by, the entity providing the goods or services. The alleged offender or delinquent child has the burden to prove that any costs are lawfully incurred. 119  
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(12) "Property" means "property" as defined in section 2901.01 of the Revised Code and any benefit, privilege, claim, position, interest in an enterprise, or right derived, directly 129  
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or indirectly, from the offense.	132
(13) "Property subject to forfeiture" includes contraband and proceeds and may include instrumentalities as provided in this chapter.	133 134 135
(14) "Prosecutor" has the same meaning as in section 2935.01 of the Revised Code. When relevant, "prosecutor" also includes the attorney general.	136 137 138
(15) "Vehicle" has the same meaning as in section 4501.01 of the Revised Code.	139 140
(16) "Watercraft" has the same meaning as in section 1547.01 of the Revised Code.	141 142
<u>(17) "Drone" has the same meaning as in section 2917.48 of the Revised Code.</u>	143 144
(C) The penalties and procedures under Chapters 2923., 2925., 2933., and 3772. of the Revised Code remain in effect to the extent that they do not conflict with this chapter.	145 146 147
<b>Sec. 2981.02.</b> (A) The following property is subject to forfeiture to the state or a political subdivision under either the criminal or delinquency process in section 2981.04 of the Revised Code or the civil process in section 2981.05 of the Revised Code:	148 149 150 151 152
(1) Contraband involved in an offense;	153
(2) Proceeds derived from or acquired through the commission of an offense;	154 155
(3) An instrumentality that is used in or intended to be used in the commission or facilitation of any of the following offenses when the use or intended use, consistent with division	156 157 158

(B) of this section, is sufficient to warrant forfeiture under 159  
this chapter: 160

(a) A felony; 161

(b) A misdemeanor, when forfeiture is specifically 162  
authorized by a section of the Revised Code or by a municipal 163  
ordinance that creates the offense or sets forth its penalties; 164

(c) A violation of section 2917.48 of the Revised Code; 165

(d) An attempt to commit, complicity in committing, or a 166  
conspiracy to commit an offense of the type described in 167  
divisions (A) (3) (a) and (b) of this section. 168

(B) A drone used in a violation of section 2917.48 of the 169  
Revised Code always shall be determined to have been used in a 170  
manner sufficient to warrant its forfeiture, as required under 171  
that section. In all other cases, in determining whether an 172  
alleged instrumentality was used in or was intended to be used 173  
in the commission or facilitation of an offense or an attempt, 174  
complicity, or conspiracy to commit an offense in a manner 175  
sufficient to warrant its forfeiture, the trier of fact shall 176  
consider the following factors the trier of fact determines are 177  
relevant: 178

(1) Whether the offense could not have been committed or 179  
attempted but for the presence of the instrumentality; 180

(2) Whether the primary purpose in using the 181  
instrumentality was to commit or attempt to commit the offense; 182

(3) The extent to which the instrumentality furthered the 183  
commission of, or attempt to commit, the offense. 184

(C) This chapter does not apply to or limit forfeitures 185  
under Title XLV of the Revised Code, including forfeitures 186

relating to section 2903.06 or 2903.08 of the Revised Code. 187

**Section 2.** That existing sections 2981.01 and 2981.02 of 188  
the Revised Code are hereby repealed. 189