



Senate Fiscal Agency
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BILL ANALYSIS



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Senate Bill 1233 (as enacted)
Sponsor: Senator Peter MacGregor
Senate Committee: Transportation
House Committee: Communications and Technology

PUBLIC ACT 442 of 2018

Date Completed: 2-22-19

CONTENT

The bill amends the Unmanned Aircraft Systems Act to do the following:

- **Prohibit a department, agency, board, or commission of the State, or a person under contract with or acting at the direction of those entities, from using an unmanned aircraft system (UAS) to surveil, inspect, or gather evidence or other information about a facility that is subject to a permit, license, or order issued by or a decree or other requirement governed by those entities unless certain criteria apply.**
- **Require a UAS that is used as described above to be clearly marked as a State-owned or-operated aircraft unless it meets certain criteria.**
- **Specify that, for any UAS operation that is consented to by the owner or operator of a facility, the consent may be conditioned on the use of a UAS that is owned and operated by that owner or operator under Federal Aviation Administration (FAA) regulations, authorizations, or exemptions.**
- **Require any data collected by the operation of a UAS concerning a facility licensed or given a permit by one of the listed entities to be furnished promptly to the facility's owner or operator upon request.**
- **Specify that the bill does not apply to a law enforcement agency operating a UAS as part of a law enforcement investigation.**

The bill will take effect on March 21, 2019.

Under the bill, except as otherwise provided, a department, agency, board, or commission of the State or a person under a contract with or acting at the direction or on behalf of one of those entities may not use a UAS to surveil, inspect, or gather evidence or collect information about a facility that is subject to a permit, license, or order issued by or a decree or other requirement governed by that department, agency, board, or commission unless any of the following apply:

- The owner or operator of the facility has given express consent for the use of a UAS for the purposes described in the bill in a particular instance.
- The department, agency, board, commission, or person is acting under a valid search warrant and the use of the UAS is strictly limited to the subject matter and scope of that warrant.
- The department, agency, board, or commission has reason to believe that there may be an imminent threat to public health, safety, property, or the natural resources of the State

- from the facility and the use of the UAS is strictly limited to the investigation of that imminent threat.
- The department, agency, board, commission, or person is inspecting a roadway, highway, airport, airport approach corridor, port, or similar infrastructure.

A UAS that is used as described above must be clearly marked as a State-owned or operated aircraft unless it is a UAS operated in accordance with the bill.

Any surveillance, inspection, evidence gathering, or information collecting conducted due to a belief of an imminent threat to public health, safety, property, or the natural resources of the State from a facility must be conducted under the direct supervision of the department, agency, board, or commission.

For any use that is governed by the provision concerning the owner or operator of the facility giving express consent for the use of the UAS system, both of the following apply:

- The consent of the owner or operator may be conditioned on the use of a UAS that is owned and operated by that owner or operator under, and in compliance with, FAA regulations, authorizations, or exemptions.
- If the owner or operator provides consent on the condition described above, or if the owner or operator withholds consent, the owner or operator must provide to the department, agency, board, or commission a statement, in writing, that indicates the health and safety reasons for providing consent on the condition described above or withholding consent.

Also, the department, agency, board, commission, or person under contract with or acting at the direction or on behalf of that entity, must allow, under its direct supervision, the use of the UAS by the owner or operator to conduct surveillance, inspection, evidence gathering, or information collecting, if doing so will gather information of a quality and nature sufficient for the intended purpose.

Any data, including videos, photographic images, or geospatial data collected by the operation of a UAS concerning a facility described under the bill must be furnished promptly to the facility's owner or operator upon request and is rebuttably presumed to be not subject to disclosure under the Freedom of Information Act.

The bill does not apply to a law enforcement agency operating a UAS as part of a law enforcement investigation.

MCL 259.307

Legislative Analyst: Drew Krogulecki

FISCAL IMPACT

The bill will have no fiscal impact on State or local government.

Fiscal Analyst: Michael Siracuse

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.