

## ALLOW MACKINAC ISLAND TO REGULATE DRONES

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**Senate Bill 129 (H-3) as referred to second committee**

**Sponsor: Sen. Wayne Schmidt**

**1st House Committee: Transportation**

**2nd House Committee: Ways and Means**

**Senate Committee: Transportation and Infrastructure**

**Complete to 6-6-19**

Analysis available at

<http://www.legislature.mi.gov>

### SUMMARY:

Senate Bill 129 would amend the Unmanned Aircraft Systems Act to allow Mackinac Island to enact and enforce an ordinance to prohibit certain uses of unmanned aircraft (i.e., drones).

Section 5 of the act currently prohibits local units of government or other public corporations or authorities from regulating the ownership or operation of drones.

Under the bill, a political subdivision that prohibits the operation of nonemergency motor vehicles (i.e., Mackinac Island) could enact and enforce an ordinance or other regulation to prohibit the knowing and intentional operation of a drone in a manner that interferes with the safe use of a horse in a commercial activity (e.g., a horse-drawn carriage, wagon, or cart or horse-riding activities).

The bill specifies that such a regulation would have to allow for the operation of a drone for any of the following purposes if that operation did not interfere with a horse as described above and if it complied with Federal Aviation Administration (FAA) regulations:

- Newsgathering by a Federal Communications Commission (FCC) licensee.
- Insurance purposes by an insurance company or adjuster.
- Maintenance performed by a **public utility** or an **independent transmission company**.

**Public utility** would mean an entity providing steam, heat, electric, power, gas, water, wastewater, telecommunications, video, cable, or internet access services.

**Independent transmission company** would mean an entity that is engaged in the transmission of electricity using facilities divested to it by an electric utility and that is independent of an electric utility generating or distributing electricity to retail customers (e.g., American Transmission Company).

Mackinac Island would have to petition the FAA for designation as a **fixed site facility** no later than 12 months after the effective date of the FAA rules that govern the processing of petitions for such a designation. The exception allowing local regulation as described above would no longer apply once the FAA designation of Mackinac Island as a fixed site facility was in effect.

**Fixed site facilities:** Section 2209 of the FAA Extension, Safety and Security Act of 2016 requires the FAA to develop a process by which to restrict the operation of drones above or near fixed site facilities where unauthorized drone use could present a hazard

or a threat. The section limits consideration as a fixed site facility to the following: (i) Critical infrastructure, such as energy production, transmission, distribution facilities and equipment, and railroad facilities. (ii) Oil refineries and chemical facilities. (iii) Amusement parks. (iv) Other locations that warrant such restrictions. The FAA's final rules to carry out the requirements of section 2209 are supposed to be issued by March 31, 2020. Of note, section 45a of the Michigan Penal Code currently prohibits a person from flying a drone, or causing one to hover, over a fixed site facility.

MCL 295.305

**FISCAL IMPACT:**

The bill would have no fiscal impact on state or local government.

**POSITIONS:**

The City of Mackinac Island indicated support for the bill. (5-7-19)

The Michigan Retailers Association indicated support for the bill. (5-7-19)

The Department of Transportation is neutral on the bill. (6-3-19)

The Michigan Coalition of Drone Operators testified in opposition to the bill. (5-7-19)

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.