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Senate Bill 129 (as enacted)
Sponsor: Senator Wayne Schmidt
Senate Committee: Transportation and Infrastructure
House Committee: Transportation
 Ways and Means

PUBLIC ACT 32 of 2019

Date Completed: 7-10-19

RATIONALE

In recent years, the ownership and use of unmanned aircraft systems (UAS), also known as drones, has steadily increased. Sources focused on the study of drone usage believe that the trend will continue due to advancing technology and competitive pricing that allow businesses and hobbyists to afford the technology. Federal regulations on drone usage have accompanied this trend, and in 2016, the United States Federal Aviation Administration (FAA) began to implement a Federal framework for drone policy.

In response to these trends, the Michigan Legislature enacted Public Act (PA) 436 of 2016, which established a framework for drone policy in the State. Public Act 436 also established the Unmanned Aircraft Systems Task Force (UASTF), and required it to develop a report on the operation, use, and regulation of drones in the State. The UASTF released its final report on November 22, 2017, with a list of recommendations on the policy issue. Among other recommendations, the UASTF suggested that the Legislature enact law to prohibit drone interference with the operation of key and unique facilities in the State. The report highlighted Mackinac Island as a key and unique facility that warranted regulation. Accordingly, it was suggested that the Legislature should allow the Island to prohibit by resolution or ordinance the operation of drones.

CONTENT

The bill amended the Unmanned Aircraft Systems Act to allow a political subdivision that prohibits the operation of nonemergency motor vehicles in the political subdivision to enact and enforce an ordinance, regulation, or resolution, under certain circumstances, to prohibit the knowing and intentional operation of an unmanned aircraft in a manner that interferes with the safe use of a horse in certain commercial activities.

The bill took effect on June 26, 2019.

Under the Act, except as authorized by statute, a political subdivision may not enact or enforce an ordinance or resolution that regulates the ownership or operation of unmanned aircraft, or otherwise engage in the regulation of the ownership or operation of unmanned aircraft.

Under the bill, subject to a petition for designation as a fixed site facility as described below, a political subdivision that prohibits by ordinance, regulation, or resolution the operation of nonemergency motor vehicles in the political subdivision may enact and enforce an ordinance, regulation, or resolution that is necessary and proper to prohibit the knowing and intentional operation of an unmanned aircraft in a manner that interferes with the safe use of a horse in a commercial activity, including the use of horse-drawn carriages, wagons, or carts or horse-riding activities. An ordinance, regulation, or resolution adopted for this purpose must allow for the

operation of an unmanned aircraft for any of the following purposes if that operation does not result in a knowing and intentional interference with the safe use of a horse in a commercial activity and complies with regulations, authorizations, or exemptions of the FAA:

- Newsgathering by a Federal Communications Commission licensee.
- Insurance purposes by an insurer or insurance adjustor.
- Maintenance performed by a public utility or an independent transmission company.
- Law enforcement.

Under the bill, "independent transmission company" means a person, partnership, corporation, association, or other legal entity, or its successor or assigns, engaged in this State in the transmission of electricity using facilities it owns that have been divested to the entity by an electric utility that was engaged in the generation, transmission, and distribution of electricity in the State on December 31, 2000, and is independent of an electric utility or an affiliate of the utility, generating or distributing electricity to retail customers in the State. "Public utility" means a company or other entity providing steam, heat, electric, power, gas, water, wastewater, telecommunications, video, cable, or internet access services.

The bill also specifies that a political subdivision described above must petition the FAA for designation as a fixed site facility under Section 2209 of the FAA Extension, Safety, and Security Act, within 12 months after the effective date of the FAA's rules governing the processing of petitions for designation as a fixed site facility. (Section 2209 of the FAA Extension, Safety, and Security Act pertains to the submission of an application for designation as a fixed site facility and specifies that only the following may be considered fixed site facilities: 1) critical infrastructure, such as energy production, transmission, and distribution facilities and equipment; 2) oil refineries and chemical facilities; 3) amusement parks; and 4) other locations that warrant such restrictions.)

Under the bill, the authorization to enforce the ordinance described above does not apply after the effective date of a fixed site designation issued by the FAA that applies to that political subdivision.

MCL 295.305

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

Mackinac Island's unique circumstances warrant this type of legislative solution for drone use. The island is a popular tourist destination, and is the only political subdivision in the State that prohibits the operation of nonemergency motor vehicles. This prohibition results in a reliance on, among other things, horse-and-carriage transportation. According to testimony before the Senate Committee on Transportation and Infrastructure, UAS frighten the island's horses, which can be hazardous for people on the Island. The Island has between 500 to 600 horses during the peak of its tourism season and, if the operation of UAS are unrestricted, the horses might become scared and run uncontrollably on streets with dense pedestrian traffic. Although the Island has had several potentially dangerous incidents, none have resulted in any serious injuries or damage. The bill will reduce the probability of such an incident from occurring.

The Island also has a small airport that is used for general aviation and air taxi service to and from the Island. The operation of drones in the vicinity of the airport could be dangerous to arriving or departing flights. With the tourism season approaching quickly, authorizing the island to regulate UAS will help ensure resident and tourist safety.

Opposing Argument

According to the FAA, whether the purpose of flight is recreational or commercial, any drone over 0.55 pounds must be registered. During registry, a novice drone user learns the basic guidelines

for drone usage. Specifically, a user may not fly a drone over groups of people or public events. Additionally, to use a drone for commercial purposes, the operator must obtain a Remote Pilot Certificate. The requirements for this certificate include a study of more comprehensive rules, a knowledge test, and the registration of the drone to be used. The registration process for recreational and commercial use serves as an appropriate preventative measure against the misuse of a drone.

Response: While a recreational or commercial user certificate does inform drone users of the proper ways to fly a drone, not all drones fit the qualifications for registration, and not all users register their drones. The safety of tourists and residents on Mackinac Island is more important than a hobbyist's recreational drone use.

Legislative Analyst: Tyler VanHuyse

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.