

Assembly Bill No. 1327

Passed the Assembly August 27, 2014

Chief Clerk of the Assembly

Passed the Senate August 26, 2014

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2014, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to add Section 6254.31 to the Government Code, and to add Title 14 (commencing with Section 14350) to Part 4 of the Penal Code, relating to unmanned aircraft systems.

LEGISLATIVE COUNSEL'S DIGEST

AB 1327, Gorell. Unmanned aircraft systems.

Existing federal law, the Federal Aviation Administration Modernization and Reform Act of 2012, provides for the integration of civil unmanned aircraft systems, commonly known as drones, into the national airspace system by September 30, 2015. Existing federal law requires the Administrator of the Federal Aviation Administration to develop and implement operational and certification requirements for the operation of public unmanned aircraft systems in the national airspace system by December 31, 2015.

This bill would generally prohibit public agencies from using unmanned aircraft systems, or contracting for the use of unmanned aircraft systems, as defined, with certain exceptions applicable to law enforcement agencies and in certain other cases, including when the use or operation of the unmanned aircraft system achieves the core mission of the agency and the purpose is unrelated to the gathering of criminal intelligence, as defined.

The bill would require reasonable public notice to be provided by public agencies intending to deploy unmanned aircraft systems, as specified. The bill would require images, footage, or data obtained through the use of an unmanned aircraft system under these provisions to be permanently destroyed within one year, except as specified. The bill would generally prohibit images, footage, or data obtained through the use of an unmanned aircraft system under these provisions from being disseminated outside the collecting public agency, except as specified. Unless authorized by federal law, the bill would prohibit a person or entity, including a public agency subject to these provisions, or a person or entity under contract to a public agency, for the purpose of that contract, from equipping or arming an unmanned aircraft system with a weapon or other device that may be carried by or launched from

an unmanned aircraft system and that is intended to cause bodily injury or death, or damage to, or the destruction of, real or personal property. The bill would also provide that specified surveillance restrictions on electronic devices apply to the use or operation of an unmanned aircraft system by a public agency.

The bill would make its provisions applicable to all public and private entities when contracting with a public agency for the use of an unmanned aircraft system.

Existing law, the California Public Records Act, requires state and local agencies to make public records available for inspection, subject to certain exceptions.

This bill would make certain images, footage, or data obtained through the use of an unmanned aircraft system under its provisions, or any related record, including, but not limited to, usage logs or logs that identify any person or entity that subsequently obtains or requests records of that system, subject to disclosure. The bill would except from the disclosure requirements discussed above images, footage, data, and records obtained through the use of an unmanned aircraft system if disclosure would endanger the safety of a person involved in an investigation, or would endanger the successful completion of the investigation.

Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

The people of the State of California do enact as follows:

SECTION 1. Section 6254.31 is added to the Government Code, to read:

6254.31. (a) Notwithstanding any provision of this chapter, images, footage, or data obtained through the use of an unmanned aircraft system pursuant to Title 14 (commencing with Section 14350) of Part 4 of the Penal Code, or any related record, including, but not limited to, usage logs or logs that identify any person or entity that subsequently obtains or requests records of that system, are public records subject to disclosure.

(b) Notwithstanding subdivision (a), nothing in this chapter or any other law requires the disclosure of images, footage, or data obtained through the use of an unmanned aircraft system, or any related record, including, but not limited to, usage logs or logs that identify any person or entity that subsequently obtains or requests records of that system, to the extent that disclosure of the images, footage, data, or records would endanger the safety of a person involved in an investigation, or would endanger the successful completion of the investigation.

SEC. 2. Title 14 (commencing with Section 14350) is added to Part 4 of the Penal Code, to read:

TITLE 14. UNMANNED AIRCRAFT SYSTEMS

14350. (a) A public agency shall not use an unmanned aircraft system, or contract for the use of an unmanned aircraft system, except as provided in this title. This title shall apply to all public and private entities when contracting with a public agency for the use of an unmanned aircraft system.

(b) A law enforcement agency may use an unmanned aircraft system if it has obtained a warrant based on probable cause pursuant to this code.

(c) A law enforcement agency, without obtaining a warrant, may use an unmanned aircraft system in all of the following circumstances:

(1) In emergency situations if there is an imminent threat to life or of great bodily harm, including, but not limited to, fires, hostage crises, “hot pursuit” situations if reasonably necessary to prevent harm to law enforcement officers or others, and search and rescue operations on land or water.

(2) To assess the necessity of first responders in situations relating to traffic accidents.

(3) (A) To inspect state parks and wilderness areas for illegal vegetation or fires.

(B) For purposes of this paragraph, “wilderness areas” means public lands without permanent improvements or human habitation.

(4) To determine the appropriate response to an imminent or existing environmental emergency or disaster, including, but not limited to, oils spills or chemical spills.

(d) A public agency other than a law enforcement agency may use an unmanned aircraft system, or contract for the use of an unmanned aircraft system, to achieve the core mission of the agency provided that the purpose is unrelated to the gathering of criminal intelligence.

(e) A public agency that is not primarily a law enforcement agency, but that employs peace officers or performs functions related to criminal investigations, may use an unmanned aircraft system without obtaining a warrant to achieve the core mission of the agency provided that the purpose is unrelated to the gathering of criminal intelligence, and that the images, footage, or data are not used for any purpose other than that for which it was collected.

14351. A public agency that uses an unmanned aircraft system, or contracts for the use of an unmanned aircraft system, pursuant to this title shall first provide reasonable notice to the public. Reasonable notice shall, at a minimum, consist of a one-time announcement regarding the agency's intent to deploy unmanned aircraft system technology and a description of the technology's capabilities.

14352. (a) (1) (A) Except as permitted by this title, images, footage, or data obtained by a public agency, or any entity contracting with a public agency, pursuant to this title shall not be disseminated to a law enforcement agency unless the law enforcement agency has obtained a warrant for the images, footage, or data based on probable cause pursuant to this code, or the law enforcement agency would not have been required to obtain a warrant to collect the images, footage, or data itself, as specified in Section 14350.

(B) A public agency that is not primarily a law enforcement agency, but that employs peace officers or performs functions related to criminal investigations, may disseminate images, footage, or data collected pursuant to Section 14350 if the dissemination is to others within that agency.

(2) Except as permitted by this title, images, footage, or data obtained by a public agency, or any entity contracting with a public agency, through the use of an unmanned aircraft system shall not be disseminated outside the collecting public agency, unless one of the following circumstances applies:

(A) Images, footage, or data obtained by a public agency through the use of an unmanned aircraft system may be disseminated to

another public agency that is not a law enforcement agency if the images, footage, or data are related to the core mission of both public agencies involved in the sending or receiving of the images, footage, or data.

(B) Images, footage, or data obtained by a public agency through the use of an unmanned aircraft system may be disseminated outside the collecting public agency if the images, footage, or data are evidence in any claim filed or any pending litigation.

(C) Images, footage, or data obtained by a public agency through the use of an unmanned aircraft system may be disseminated to a private entity if both of the following conditions are satisfied:

(i) The collecting public agency is not a law enforcement agency.

(ii) The images, footage, or data are related to the core function of the collecting public agency.

(3) A public agency may make available to the public images, footage, or data obtained by the public agency through the use of an unmanned aircraft system if both of the following conditions are satisfied:

(A) The images, footage, or data do not depict or describe any individual or group of individuals, or the activities of any individual or group of individuals whose identity or identities can be ascertained.

(B) The disclosure of the images, footage, or data is required to fulfill the public agency's statutory or mandatory obligations.

(b) Except as permitted by this title, images, footage, or data obtained by a public agency through the use of an unmanned aircraft system shall not be used by the public agency for any purpose other than that for which it was collected.

(c) (1) Images, footage, or data obtained through the use of an unmanned aircraft system shall be permanently destroyed within one year, except that a public agency may retain the images, footage, or data in all of the following circumstances:

(A) For training purposes. Images, footage, or data retained for training purposes shall be used only for the education and instruction of a public agency's employees in matters related to the mission of the public agency and for no other purpose.

(B) For academic research or teaching purposes. Images, footage, or data retained for academic research or teaching purposes shall be used only for the advancement of research and teaching

conducted by an academic or research institution and matters related to the mission of the institution and for no other purpose.

(C) For purposes of monitoring material assets owned by the public agency.

(D) For environmental, public works, or land use management or planning by the public agency.

(2) Notwithstanding paragraph (1), a public agency may retain beyond one year images, footage, or data obtained through the use of an unmanned aircraft system in both of the following circumstances:

(A) If a warrant authorized the collection of the images, footage, or data.

(B) If the images, footage, or data are evidence in any claim filed or any pending litigation or enforcement proceeding.

14353. Unless authorized by federal law, a person or entity, including a public agency subject to Section 14350 or a person or entity under contract to a public agency, for the purpose of that contract, shall not equip or arm an unmanned aircraft system with a weapon or other device that may be carried by or launched from an unmanned aircraft system and that is intended to cause bodily injury or death, or damage to, or the destruction of, real or personal property.

14354. All unmanned aircraft systems shall be operated so as to minimize the collection of images, footage, or data of persons, places, or things not specified with particularity in the warrant authorizing the use of an unmanned aircraft system, or, if no warrant was obtained, for purposes unrelated to the justification for the operation.

14355. (a) This title is not intended to conflict with or supersede federal law, including rules and regulations of the Federal Aviation Administration.

(b) A local legislative body may adopt more restrictive policies on the acquisition or use of unmanned aircraft systems.

14356. For the purposes of this title, the following definitions shall apply:

(a) “Criminal intelligence” means information compiled, analyzed, or disseminated in an effort to anticipate, prevent, monitor, or investigate criminal activity.

(b) “Law enforcement agency” means the Attorney General of the State of California, each district attorney, and each agency of

the State of California authorized by statute to investigate or prosecute law violators.

(c) “Public agency” means and includes each state agency and each local agency.

(d) “Unmanned aircraft system” means an unmanned aircraft and associated elements, including communication links and the components that control the unmanned aircraft, that are required for the pilot in command to operate safely and efficiently in the national airspace system.

14357. Except as provided in this title, the surveillance restrictions on electronic devices described in Chapter 1.5 (commencing with Section 630) of Title 15 of Part 1 shall apply to the use or operation of an unmanned aircraft system by a public agency.

SEC. 3. The Legislature finds and declares that Section 1 of this act, which adds Section 6254.31 of the Government Code, imposes a limitation on the public’s right of access to the meetings of public bodies or the writings of public officials and agencies within the meaning of Section 3 of Article I of the California Constitution. Pursuant to that constitutional provision, the Legislature makes the following findings to demonstrate the interest protected by this limitation and the need for protecting that interest:

In order to ensure the safety of persons involved in investigations and to preserve the integrity of those investigations, it is necessary that this act take effect.

Approved _____, 2014

Governor