

ASSEMBLY BILL

No. 37

Introduced by Assembly Member Campos

December 1, 2014

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 37, as introduced, Campos. 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 apply its provisions 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 disclosure 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.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

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

1 harm to law enforcement officers or others, and search and rescue
2 operations on land or water.

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

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

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

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

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

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

24 14351. A public agency that uses an unmanned aircraft system,
25 or contracts for the use of an unmanned aircraft system, pursuant
26 to this title shall first provide reasonable notice to the public.
27 Reasonable notice shall, at a minimum, consist of a one-time
28 announcement regarding the agency’s intent to deploy unmanned
29 aircraft system technology and a description of the technology’s
30 capabilities.

31 14352. (a) (1) (A) Except as permitted by this title, images,
32 footage, or data obtained by a public agency, or any entity
33 contracting with a public agency, pursuant to this title shall not be
34 disseminated to a law enforcement agency unless the law
35 enforcement agency has obtained a warrant for the images, footage,
36 or data based on probable cause pursuant to this code, or the law
37 enforcement agency would not have been required to obtain a
38 warrant to collect the images, footage, or data itself, as specified
39 in Section 14350.

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

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

11 (A) Images, footage, or data obtained by a public agency through
12 the use of an unmanned aircraft system may be disseminated to
13 another public agency that is not a law enforcement agency if the
14 images, footage, or data are related to the core mission of both
15 public agencies involved in the sending or receiving of the images,
16 footage, or data.

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

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

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

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

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

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

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

38 (b) Except as permitted by this title, images, footage, or data
39 obtained by a public agency through the use of an unmanned

1 aircraft system shall not be used by the public agency for any
2 purpose other than that for which it was collected.

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

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

11 (B) For academic research or teaching purposes. Images,
12 footage, or data retained for academic research or teaching purposes
13 shall be used only for the advancement of research and teaching
14 conducted by an academic or research institution and matters
15 related to the mission of the institution and for no other purpose.

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

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

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

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

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

28 14353. Unless authorized by federal law, a person or entity,
29 including a public agency subject to Section 14350 or a person or
30 entity under contract to a public agency, for the purpose of that
31 contract, shall not equip or arm an unmanned aircraft system with
32 a weapon or other device that may be carried by or launched from
33 an unmanned aircraft system and that is intended to cause bodily
34 injury or death, or damage to, or the destruction of, real or personal
35 property.

36 14354. All unmanned aircraft systems shall be operated so as
37 to minimize the collection of images, footage, or data of persons,
38 places, or things not specified with particularity in the warrant
39 authorizing the use of an unmanned aircraft system, or, if no

1 warrant was obtained, for purposes unrelated to the justification
2 for the operation.

3 14355. (a) This title is not intended to conflict with or
4 supersede federal law, including rules and regulations of the
5 Federal Aviation Administration.

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

8 14356. For the purposes of this title, the following definitions
9 shall apply:

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

13 (b) “Law enforcement agency” means the Attorney General of
14 the State of California, each district attorney, and each agency of
15 the State of California authorized by statute to investigate or
16 prosecute law violators.

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

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

24 14357. Except as provided in this title, the surveillance
25 restrictions on electronic devices described in Chapter 1.5
26 (commencing with Section 630) of Title 15 of Part 1 shall apply
27 to the use or operation of an unmanned aircraft system by a public
28 agency.

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

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

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