

AMENDED IN ASSEMBLY MARCH 8, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1820**

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**Introduced by Assembly Member Quirk**

February 8, 2016

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An act 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 1820, as amended, Quirk. Unmanned aircraft systems.

Existing federal law, the Federal Aviation Administration Modernization and Reform Act of 2012, provides for the integration of civil and public unmanned aircraft systems, commonly known as drones, into the national airspace system.

This bill would generally prohibit a law enforcement agency from using an unmanned aircraft system, obtaining an unmanned aircraft system from another public agency by contract, loan, or other arrangement, or using information obtained from an unmanned aircraft system used by another public agency, except as provided by the bill's provisions. The bill would make its provisions applicable to all law enforcement agencies and private entities when contracting with or acting as the agent of a law enforcement agency for the use of an unmanned aircraft system. The bill would authorize a law enforcement agency to use an unmanned aircraft system if the law enforcement agency complies with specified requirements, including, among others, that before the use of an unmanned aircraft system, the law enforcement agency develops and makes available to the public a policy on the use of an unmanned aircraft system, as provided, and that the law enforcement agency complies with all applicable federal, state, and

local law and the unmanned aircraft system policy developed by the law enforcement agency pursuant to the bill’s provisions. The bill would prohibit a law enforcement agency from using an unmanned aircraft system to surveil private property unless, among other justifications, the law enforcement agency obtains a search warrant.

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. 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 or directed from, an unmanned aircraft system and that is intended to cause incapacitation, bodily injury or death, or damage to, or the destruction of, real or personal property. By creating a new crime, the bill would impose a state-mandated local program. 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 law enforcement agency.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

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

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

1 SECTION 1. Title 14 (commencing with Section 14350) is  
2 added to Part 4 of the Penal Code, to read:

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4 TITLE 14. UNMANNED AIRCRAFT SYSTEMS

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6 14350. (a) A law enforcement agency shall not use an  
7 unmanned aircraft system, obtain an unmanned aircraft system  
8 from another public agency by contract, loan, or other arrangement,  
9 or use information obtained from an unmanned aircraft system  
10 used by another public agency, except as provided in this title.

11 This title shall apply to all law enforcement agencies and private

1 entities when contracting with or acting as the agent of a law  
2 enforcement agency for the use of an unmanned aircraft system.

3 (b) A law enforcement agency may use an unmanned aircraft  
4 system, or use information obtained from an unmanned aircraft  
5 system used by another public agency, if the law enforcement  
6 agency complies with the requirements of this title and all  
7 applicable federal, state, and local law.

8 (c) If the use of an unmanned aircraft system by a local law  
9 enforcement agency may involve the collection of images, footage,  
10 or data from another county, city, or city and county, the law  
11 enforcement agency shall obtain a warrant based on probable cause,  
12 unless an exigent circumstance exists.

13 (d) (1) If a law enforcement agency elects to use an unmanned  
14 aircraft system, the law enforcement agency shall first develop  
15 and make available to the public a policy on its use of the  
16 unmanned aircraft system, and train the law enforcement agency's  
17 officers and employees on the policy, before the use of the  
18 unmanned aircraft system.

19 (2) A law enforcement agency shall use the unmanned aircraft  
20 system consistent with the policy developed pursuant to this  
21 subdivision.

22 (3) Before finalizing the policy required by this subdivision,  
23 the law enforcement agency shall present the proposed policy at  
24 a regularly scheduled and noticed public meeting of its governing  
25 body with an opportunity for public comment.

26 (4) The policy required by this subdivision shall specify, at a  
27 minimum, all of the following:

28 (A) The circumstances under which an unmanned aircraft system  
29 may or may not be used.

30 (B) The rules and processes required before the use of an  
31 unmanned aircraft system.

32 (C) The individuals who may access or use an unmanned aircraft  
33 system or the information collected by an unmanned aircraft system  
34 and the circumstances under which those individuals may do so.

35 (D) The safeguards to protect against unauthorized use or access.

36 (E) The training required for any individual authorized to use  
37 or access information collected by an unmanned aircraft system.

38 (F) The guidelines for sharing images, footage, or data with  
39 other law enforcement agencies and public agencies.

1 (G) The manner in which information obtained from another  
2 public agency’s use of an unmanned aircraft system will be used.

3 (H) Mechanisms to ensure that the policy required by this  
4 subdivision is adhered to.

5 (e) A law enforcement agency shall not use an unmanned aircraft  
6 system, or information obtained from an unmanned aircraft system  
7 used by another public agency, to surveil private property unless  
8 the law enforcement agency has obtained either of the following:

9 (1) A search warrant based on probable cause.

10 (2) The express permission of the person or entity with the legal  
11 authority to authorize a search of the specific private property to  
12 be subjected to surveillance.

13 (f) Notwithstanding subdivision (e), a law enforcement agency  
14 may use an unmanned aircraft system to surveil private property  
15 if an exigent circumstance exists, including, but not limited to,  
16 either of the following circumstances:

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

22 (2) To determine the appropriate response to an imminent or  
23 existing environmental emergency or disaster, including, but not  
24 limited to, oil spills or chemical spills.

25 14351. (a) Images, footage, or data obtained through the use  
26 of an unmanned aircraft system shall be permanently destroyed  
27 within one year, except that a law enforcement agency may retain  
28 the images, footage, or data in both of the following circumstances:

29 (1) For training purposes. Images, footage, or data retained for  
30 training purposes shall be used only for the education and  
31 instruction of a law enforcement agency’s employees in matters  
32 related to the mission of the law enforcement agency and for no  
33 other purpose.

34 (2) For academic research or teaching purposes. Images, footage,  
35 or data retained for academic research or teaching purposes shall  
36 be used only for the advancement of research and teaching  
37 conducted by an academic or research institution and matters  
38 related to the mission of the institution and for no other purpose.

39 (b) Notwithstanding subdivision (a), a law enforcement agency  
40 may retain beyond one year images, footage, or data obtained

1 through the use of an unmanned aircraft system in both of the  
2 following circumstances:

3 (1) If a search warrant authorized the collection of the images,  
4 footage, or data.

5 (2) If the images, footage, or data are evidence in any claim  
6 filed or any pending litigation, internal disciplinary proceeding,  
7 enforcement proceeding, or criminal investigation.

8 14352. Unless authorized by federal law, a person or entity,  
9 including a law enforcement agency subject to Section 14350 or  
10 a person or entity under contract to a law enforcement agency, for  
11 the purpose of that contract, shall not equip or arm an unmanned  
12 aircraft system with a weapon or other device that may be carried  
13 by, or launched or directed from, an unmanned aircraft system and  
14 that is intended to cause incapacitation, bodily injury or death, or  
15 damage to, or the destruction of, real or personal property.

16 14353. ~~All unmanned aircraft systems shall be operated~~ *A law*  
17 *enforcement agency that uses an unmanned aircraft system shall*  
18 *operate the system* so as to minimize the collection of images,  
19 footage, or data of persons, places, or things not specified with  
20 particularity in the warrant authorizing the use of an unmanned  
21 aircraft system, or, if no warrant was obtained, for purposes  
22 unrelated to the justification for the operation.

23 14354. (a) This title is not intended to conflict with or  
24 supersede federal law, including rules and regulations of the  
25 Federal Aviation Administration.

26 (b) A local legislative body may adopt more restrictive policies  
27 on the acquisition, use, or retention of unmanned aircraft systems  
28 by a law enforcement agency.

29 14355. Except as provided in this title, the surveillance  
30 restrictions on electronic devices described in Chapter 1.5  
31 (commencing with Section 630) of Title 15 of Part 1 shall apply  
32 to the use or operation of an unmanned aircraft system by a law  
33 enforcement agency.

34 14356. For the purposes of this title, the following definitions  
35 shall apply:

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

39 (b) “Law enforcement agency” means the Attorney General,  
40 each district attorney, and each agency of the state or political

1 subdivision of the state authorized by statute to investigate or  
2 prosecute law violators and that employs peace officers.

3 (c) “Surveil” means the purposeful observation of a person or  
4 private property with the intent of gathering criminal intelligence.

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

10 SEC. 2. No reimbursement is required by this act pursuant to  
11 Section 6 of Article XIII B of the California Constitution because  
12 the only costs that may be incurred by a local agency or school  
13 district will be incurred because this act creates a new crime or  
14 infraction, eliminates a crime or infraction, or changes the penalty  
15 for a crime or infraction, within the meaning of Section 17556 of  
16 the Government Code, or changes the definition of a crime within  
17 the meaning of Section 6 of Article XIII B of the California  
18 Constitution.