

AMENDED IN ASSEMBLY APRIL 11, 2016

AMENDED IN ASSEMBLY MARCH 8, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 1820

Introduced by Assembly Member Quirk

February 8, 2016

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 *system, obtain an unmanned aircraft system from another public agency by contract, loan, or other arrangement, or permit another law enforcement agency to use an unmanned aircraft system within the agency's jurisdiction* 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:

1 TITLE 14. UNMANNED AIRCRAFT SYSTEMS

2
3 14350. (a) A law enforcement agency shall not use an
4 unmanned aircraft system, obtain an unmanned aircraft system
5 from another public agency by contract, loan, or other arrangement,
6 or use information obtained from an unmanned aircraft system
7 used by another public agency, except as provided in this title.
8 This title shall apply to all law enforcement agencies and private
9 entities when contracting with or acting as the agent of a law
10 enforcement agency for the use of an unmanned aircraft system.

11 (b) A law enforcement agency may use an unmanned aircraft
12 system, *obtain an unmanned aircraft system from another agency*
13 *by contract, loan, or other arrangement, or permit another law*
14 *enforcement agency to use information obtained from an unmanned*
15 *aircraft system used by another public agency, within the agency's*
16 *jurisdiction* if the law enforcement agency complies with the
17 requirements of this title and all applicable federal, state, and local
18 law.

19 (c) If the use of an unmanned aircraft system by a local law
20 enforcement agency may involve the collection of images, footage,
21 or data from another county, city, or city and county, the law
22 enforcement agency shall obtain a warrant based on probable cause,
23 unless ~~an~~ *either of the following applies:*

24 (1) An exigent circumstance exists.

25 (2) *The law enforcement agency has entered into a written,*
26 *public agreement with the appropriate law enforcement agency*
27 *in the other county, city, or city and county, and that other law*
28 *enforcement agency complies with paragraph (5) of subdivision*
29 *(d).*

30 (d) (1) If a law enforcement agency elects to use an unmanned
31 aircraft system, the law enforcement agency shall first develop
32 and make available to the public a policy on its use of the
33 unmanned aircraft system, and train the law enforcement agency's
34 officers and employees on the policy, before the use of the
35 unmanned aircraft system.

36 (2) A law enforcement agency shall use the unmanned aircraft
37 system consistent with the policy developed pursuant to this
38 subdivision.

39 (3) Before finalizing the policy required by this subdivision,
40 the law enforcement agency shall present the proposed policy at

1 a regularly scheduled and noticed public meeting of its governing
 2 body with an opportunity for public comment.

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

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

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

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

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

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

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

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

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

21 (5) *If a law enforcement agency elects to permit another law*
 22 *enforcement agency to use an unmanned aircraft system within*
 23 *the agency’s jurisdiction by means of an agreement entered into*
 24 *pursuant to subdivision (c), the agency shall post a copy of the*
 25 *agreement on its Internet Web site.*

26 (e) A law enforcement agency shall not use an unmanned aircraft
 27 system, ~~or obtain an unmanned aircraft system from another public~~
 28 ~~agency by contract, loan, or other arrangement, or use~~ information
 29 obtained from an unmanned aircraft system used by another public
 30 ~~agency,~~ agency to surveil private property unless the law
 31 enforcement agency has obtained either of the following:

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

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

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

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

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

9 14351. (a) Images, footage, or data obtained through the use
10 of an unmanned aircraft system shall be permanently destroyed
11 within one year, except that a law enforcement agency may retain
12 the images, footage, or data in both of the following circumstances:

13 (1) For training purposes. Images, footage, or data retained for
14 training purposes shall be used only for the education and
15 instruction of a law enforcement agency’s employees in matters
16 related to the mission of the law enforcement agency and for no
17 other purpose.

18 (2) For academic research or teaching purposes. Images, footage,
19 or data retained for academic research or teaching purposes shall
20 be used only for the advancement of research and teaching
21 conducted by an academic or research institution and matters
22 related to the mission of the institution and for no other purpose.

23 (b) Notwithstanding subdivision (a), a law enforcement agency
24 may retain beyond one year images, footage, or data obtained
25 through the use of an unmanned aircraft system in both of the
26 following circumstances:

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

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

32 14352. Unless authorized by federal law, a person or entity,
33 including a law enforcement agency subject to Section 14350 or
34 a person or entity under contract to a law enforcement agency, for
35 the purpose of that contract, shall not equip or arm an unmanned
36 aircraft system with a weapon or other device that may be carried
37 by, or launched or directed from, an unmanned aircraft system and
38 that is intended to cause incapacitation, bodily injury or death, or
39 damage to, or the destruction of, real or personal property.

1 14353. A law enforcement agency that uses an unmanned
2 aircraft system *or obtains an unmanned aircraft system from*
3 *another public agency by contract, loan, or other arrangement*
4 shall *make a good faith effort to* operate the system so as to
5 minimize the collection of images, footage, or data of persons,
6 places, or things not specified with particularity in the warrant
7 authorizing the use of an unmanned aircraft system, or, if no
8 warrant was obtained, for purposes unrelated to the justification
9 for the operation.

10 14354. (a) This title is not intended to conflict with or
11 supersede federal law, including rules and regulations of the
12 Federal Aviation Administration.

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

16 14355. Except as provided in this title, the surveillance
17 restrictions on electronic devices described in Chapter 1.5
18 (commencing with Section 630) of Title 15 of Part 1 shall apply
19 to the use or operation of an unmanned aircraft system by a law
20 enforcement agency.

21 14356. For the purposes of this title, the following definitions
22 shall apply:

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

26 (b) “Law enforcement agency” means the Attorney General,
27 each district attorney, and each agency of the state or political
28 subdivision of the state authorized by statute to investigate or
29 prosecute law violators and that employs peace officers.

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

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

37 SEC. 2. No reimbursement is required by this act pursuant to
38 Section 6 of Article XIII B of the California Constitution because
39 the only costs that may be incurred by a local agency or school
40 district will be incurred because this act creates a new crime or

1 infraction, eliminates a crime or infraction, or changes the penalty
2 for a crime or infraction, within the meaning of Section 17556 of
3 the Government Code, or changes the definition of a crime within
4 the meaning of Section 6 of Article XIII B of the California
5 Constitution.

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