

AMENDED IN ASSEMBLY MAY 19, 2016

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~~ *authorized by the bill's provisions. provisions of this bill*. 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, 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~~ *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~~ *the* unmanned aircraft ~~system~~, *system that meets specified requirements*, 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~~ *policy adopted pursuant to these provisions*. The bill would prohibit a law enforcement agency from using an unmanned aircraft system to surveil private ~~property unless, among other justifications,~~ *property, unless* the law enforcement agency obtains a search ~~warrant~~. *warrant or express permission to search the property, as specified, or an exigent circumstance exists.*

The bill would require *any* 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, ~~entity~~ 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~~. *device, as specified.* 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:

3
4 TITLE 14. UNMANNED AIRCRAFT SYSTEMS
5

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

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

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

26 (1) An exigent circumstance exists.

27 (2) The law enforcement agency has entered into a written,
28 public agreement with the appropriate law enforcement agency in
29 the other county, city, or city and county, and that other law
30 enforcement agency complies with paragraph ~~(5)~~ (6) of subdivision
31 (d).

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

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

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

8 ~~(4)~~

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

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

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

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

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

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

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

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

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

27 *(4) The finalized policy developed pursuant to this subdivision*
28 *shall be predominantly posted on the law enforcement agency’s*
29 *public Internet Web site.*

30 *(5) The law enforcement agency shall maintain an Internet Web*
31 *site page for public input to address civilians’ concerns and*
32 *recommendations.*

33 ~~(5)~~

34 (6) If a law enforcement agency elects to permit another law
35 enforcement agency to use an unmanned aircraft system within
36 the agency’s jurisdiction by means of an agreement entered into
37 pursuant to subdivision (c), the agency shall post a copy of the
38 agreement on its Internet Web site. *The agreement, at a minimum,*
39 *shall specify that the policies developed by the law enforcement*
40 *agency that owns the unmanned aircraft system will be complied*

1 *with by that law enforcement agency in the jurisdiction in which*
2 *the unmanned aircraft system is used.*

3 (e) A law enforcement agency shall not use an unmanned aircraft
4 system, obtain an unmanned aircraft system from another public
5 agency by contract, loan, or other arrangement, or use information
6 obtained from an unmanned aircraft system used by another public
7 agency to surveil private property unless the law enforcement
8 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. A law enforcement agency that uses an unmanned
17 aircraft system or obtains an unmanned aircraft system from
18 another public agency by contract, loan, or other arrangement shall
19 make a good faith effort to operate the system so as to minimize
20 the collection of images, footage, or data of persons, places, or
21 things not specified with particularity in the warrant authorizing
22 the use of an unmanned aircraft system, or, if no warrant was
23 obtained, for purposes unrelated to the justification for the
24 operation.

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

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

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

36 14356. For the purposes of this title, the following definitions
37 shall apply:

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

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

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

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

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