

MAINE STATE LEGISLATURE

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L.D. 25

Date: 6/17/15

(Filing No. H-469)

JUDICIARY

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
127TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 24, L.D. 25, Bill, "An Act To Protect the Privacy of Citizens from Domestic Unmanned Aerial Vehicle Uses"

Amend the bill by striking out the title and substituting the following:

'An Act To Regulate Domestic Unmanned Aerial Vehicle Use'

Amend the bill by striking out everything after the enacting clause and before the summary and inserting the following:

'Sec. 1. 25 MRSA Pt. 12 is enacted to read:

PART 12

UNMANNED AERIAL VEHICLES

CHAPTER 551

REGULATION OF UNMANNED AERIAL VEHICLES

§4501. Regulation of unmanned aerial vehicles

1. Findings. The Legislature finds that evolving technology regarding unmanned aerial vehicles presents a potential economic driver for the State, an opportunity for research and development and a very real benefit for security, for search and rescue efforts and for disaster prevention and relief, as well as a tool for the investigation of serious crimes, but the technology also presents a potential threat to the privacy of citizens of this State if used by law enforcement in the conduct of criminal investigations without appropriate guidelines and supervision.

2. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Law enforcement agency" has the same meaning as in section 3701, subsection 1.

COMMITTEE AMENDMENT

1 B. "Unmanned aerial vehicle" means an aircraft operated without a physical human
2 presence within or on the aircraft that, in the manner in which the aircraft is used or
3 the manner in which it is equipped, is capable of performing audio or visual
4 surveillance.

5 3. Acquisition of unmanned aerial vehicles. The acquisition of an unmanned aerial
6 vehicle by a law enforcement agency must be approved by the governing body of the
7 governmental unit overseeing the law enforcement agency seeking to make such an
8 acquisition or, in the case of a state agency, by the commissioner of that agency.

9 4. Law enforcement agency operation of unmanned aerial vehicles. A law
10 enforcement agency's operation of an unmanned aerial vehicle must fully comply with all
11 Federal Aviation Administration requirements and guidelines, including the acquisition of
12 a certificate of authorization or waiver from the Federal Aviation Administration.
13 Additionally, a law enforcement agency's use of an unmanned aerial vehicle is governed
14 by the following provisions.

15 A. A law enforcement agency may not use an unmanned aerial vehicle before
16 adopting standards that meet, at a minimum, the standards set forth in subsection 5.

17 B. Except as permitted by a recognized exception to the requirement for a warrant
18 under the Constitution of Maine or the United States Constitution, a law enforcement
19 agency may not use an unmanned aerial vehicle for criminal investigations without a
20 warrant.

21 C. Notwithstanding paragraph A, a law enforcement agency may use an unmanned
22 aerial vehicle for the purpose of a search and rescue operation when the law
23 enforcement agency determines that use of an unmanned aerial vehicle is necessary
24 to alleviate an immediate danger to any person or for training exercises related to
25 such uses.

26 D. Notwithstanding paragraph A, a law enforcement agency may use an unmanned
27 aerial vehicle for purposes other than the investigation of crime, including, but not
28 limited to, aerial photography for the assessment of accidents, forest fires and other
29 fire scenes, flood stages and storm damage.

30 E. In no case may a weaponized unmanned aerial vehicle be used or its use
31 facilitated by a state or local law enforcement agency in this State.

32 F. A law enforcement agency may not use an unmanned aerial vehicle to conduct
33 surveillance of private citizens peacefully exercising their constitutional rights of free
34 speech and assembly.

35 G. Notwithstanding paragraph A, a law enforcement agency may use an unmanned
36 aerial vehicle for an emergency use approved by the chief administrative officer of
37 the agency or the Governor.

38 5. Minimum standards for law enforcement. The Board of Trustees of the Maine
39 Criminal Justice Academy, in consultation with the Office of the Attorney General, shall
40 establish minimum standards for written policies and protocols for use of unmanned
41 aerial vehicles by law enforcement agencies. The standards must include at a minimum:

H. & S.

COMMITTEE AMENDMENT "A" to H.P. 24, L.D. 25

- 1 A. Training and certification requirements for a person operating an unmanned aerial
- 2 vehicle;
- 3 B. Requirements for prior authorization for the use of an unmanned aerial vehicle by
- 4 the chief administrative officer of the law enforcement agency seeking to use such a
- 5 vehicle;
- 6 C. Approval by the Attorney General or chief prosecuting attorney for the
- 7 appropriate jurisdiction for the deployment of an unmanned aerial vehicle for
- 8 criminal investigation purposes;
- 9 D. Restrictions on the use of night vision technology, high-powered zoom lenses,
- 10 video analytics, facial recognition technology, thermal imaging and other such
- 11 enhancement technology;
- 12 E. Procedures to minimize the inadvertent audio or visual recording of private spaces
- 13 of 3rd parties who are not under investigation;
- 14 F. Procedures for destroying any unnecessary audio or visual recordings without
- 15 further duplication or dissemination;
- 16 G. Recommended minimum altitudes and speeds at which an unmanned aerial
- 17 vehicle may be flown in order to minimize the invasion of privacy of 3rd parties who
- 18 are not under investigation;
- 19 H. Methods to minimize the number of unmanned aerial vehicles deployed at any
- 20 one time in any one area or at any one event;
- 21 I. Procedures to avoid hazards to persons and property on land and in the air due to
- 22 the operation of unmanned aerial vehicles;
- 23 J. Methods for tracking and recording the flight of each unmanned aerial vehicle;
- 24 K. Requirements for regular statistical reporting of all uses of unmanned aerial
- 25 vehicles, including the purposes, the results and the duration of such uses, to the
- 26 appropriate governmental bodies; and
- 27 L. Accountability of a law enforcement agency for any mistake in deployment or
- 28 misuse of an unmanned aerial vehicle, including sanctions as provided in section
- 29 2803-C or section 2806-A, as applicable.
- 30 **6. Data collection.** On or before July 1, 2016 and July 1st of each subsequent year,
- 31 the Commissioner of Public Safety shall submit to the Legislature a report containing the
- 32 number of instances in which an unmanned aerial vehicle has been deployed by any law
- 33 enforcement agency in the State with summary descriptions of the number of
- 34 deployments for investigative purposes, the general nature of those investigations and the
- 35 number of search warrants sought and the number of search warrants obtained for the
- 36 deployment of unmanned aerial vehicles.'

SUMMARY

This amendment replaces the bill with various provisions regulating the use of unmanned aerial vehicles, also known as drones, by law enforcement agencies. This amendment includes a legislative findings provision to recognize the potential benefits

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1 and risks of the evolving technology of unmanned aerial vehicles and narrows the
2 definition of "unmanned aerial vehicle" to include only vehicles with the capability of
3 performing audio or visual surveillance.

4 It requires the governing body of the governmental unit overseeing a law
5 enforcement agency to approve the acquisition of an unmanned aerial vehicle by the law
6 enforcement agency. It requires that a law enforcement agency must comply with
7 Federal Aviation Administration requirements when operating an unmanned aerial
8 vehicle.

9 Under this amendment, a law enforcement agency may operate an unmanned aerial
10 vehicle only after it has adopted the standards established by the Board of Trustees of the
11 Maine Criminal Justice Academy. The amendment provides exceptions for the use of an
12 unmanned aerial vehicle in search and rescue operations when the law enforcement
13 agency determines that the use is necessary to alleviate immediate danger to any person
14 or for training exercises to prepare for such uses and for an emergency use approved by
15 the chief administrative officer of the agency or the Governor. In addition, a law
16 enforcement agency may use unmanned aerial vehicles for purposes other than the
17 investigation of crimes, such as aerial photography for the assessment of accidents, forest
18 fires and other fire scenes, flood stages and storm damage.

19 This amendment prohibits a law enforcement agency from using a weaponized
20 unmanned aerial vehicle. Additionally, a law enforcement agency may not use an
21 unmanned aerial vehicle for criminal investigations without a warrant, except as
22 permitted by a recognized exception to the requirement for a warrant under the
23 Constitution of Maine or the United States Constitution. The amendment also prohibits
24 law enforcement use of an unmanned aerial vehicle to conduct surveillance of private
25 citizens peacefully exercising their rights of free speech and assembly.

26 This amendment requires the Board of Trustees of the Maine Criminal Justice
27 Academy to establish minimum standards for written policies and protocols for use of
28 unmanned aerial vehicles and the Commissioner of Public Safety to annually report to the
29 Legislature.

30 **FISCAL NOTE REQUIRED**

31 (See attached)



127th MAINE LEGISLATURE

LD 25

LR 247(02)

An Act To Protect the Privacy of Citizens from Domestic Unmanned Aerial Vehicle Uses

Fiscal Note for Bill as Amended by Committee Amendment "A" (H-469)

Committee: Judiciary

Fiscal Note Required: Yes

Fiscal Note

Minor cost increase - General Fund

Correctional and Judicial Impact Statements

Increases case-loads with no effect on fines or fees

Fiscal Detail and Notes

Additional costs to the Department of Public Safety associated with developing and submitting the annual report can be absorbed within existing budgeted resources.