

MAINE STATE LEGISLATURE

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STATE OF MAINE
126TH LEGISLATURE
FIRST REGULAR SESSION



Summaries of bills, amendments and laws enacted or finally passed

JOINT STANDING COMMITTEE ON JUDICIARY

July 2013

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STATE OF MAINE

126TH LEGISLATURE
FIRST REGULAR SESSION



LEGISLATIVE DIGEST OF BILL SUMMARIES AND ENACTED LAWS

This *Legislative Digest of Bill Summaries and Enacted Laws* contains summaries of all LDs and adopted amendments and all laws enacted or finally passed during the First Regular Session of the 126th Maine Legislature.

The *Digest* is arranged alphabetically by committee and within each committee by Legislative Document (LD) number. The committee report(s), prime sponsor and lead co-sponsor(s), if designated, are listed below each LD title. All adopted amendments are summarized and listed by paper number. A subject index is included with each committee. The appendices include a summary of relevant session statistics, an index of all bills by LD number and an index of enacted laws by law type and chapter number.

Final action on each LD is noted to the right of the LD title. The following describes the various final actions.

CARRIED OVER carried over to a subsequent session of the Legislature
CON RES XXX..... chapter # of constitutional resolution passed by both houses
CONF CMTE UNABLE TO AGREE.....Committee of Conference unable to agree; legislation died
DIED BETWEEN HOUSES.....House & Senate disagreed; legislation died
DIED IN CONCURRENCE.....defeated in each house, but on different motions; legislation died
DIED ON ADJOURNMENT..... action incomplete when session ended; legislation died
EMERGENCY..... enacted law takes effect sooner than 90 days after session adjournment
FAILED, EMERGENCY ENACTMENT or FINAL PASSAGE emergency failed to receive required 2/3 vote
FAILED, ENACTMENT or FINAL PASSAGE..... failed to receive final majority vote
FAILED, MANDATE ENACTMENT legislation proposing local mandate failed required 2/3 vote
HELD BY GOVERNOR..... Governor has not signed; final disposition to be determined at subsequent session
LEAVE TO WITHDRAW..... sponsor's request to withdraw legislation granted
NOT PROPERLY BEFORE THE BODY ruled out of order by the presiding officer; legislation died
INDEF PP..... indefinitely postponed; legislation died
ONTP, ACCEPTED, MAJORITY, MINORITY or REPORT X... ought-not-to-pass report accepted; legislation died
P&S XXX..... chapter # of enacted private & special law
PUBLIC XXX.....chapter # of enacted public Law
RESOLVE XXX..... chapter # of finally passed resolve
VETO SUSTAINED..... Legislature failed to override Governor's veto

The effective date for non-emergency legislation enacted in the First Regular Session of the 126th Legislature is October 9, 2013. The effective date for legislation enacted as an emergency measure may be found in the enacted law summary for that legislation.

Joint Standing Committee on Judiciary

LD 236

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

**VETO
SUSTAINED**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
PATRICK PETERSON	OTP-AM OTP-AM	S-282 S-285 PATRICK H-563 BERRY

This bill regulates unmanned aerial vehicles, including their acquisition and lawful operation by law enforcement agencies in collecting, disclosing and receiving information and the retention of information collected. For the permitted operation of an unmanned aerial vehicle, the bill requires the consent of the subject person, a warrant or court order, an emergency situation that threatens life or serious bodily injury or an emergency enforcement situation that threatens national security or evinces conspiratorial criminal conduct requiring immediate operation of the vehicle before a warrant can be obtained. The bill also allows delayed service of a warrant or court order informing the subject person until after the warrant's or order's issuance if necessary for avoiding certain adverse results. The bill provides for a private right of action or enforcement by the Attorney General for a violation and disallows the use of any information collected in violation as evidence in a hearing or court of law. The bill requires the Attorney General to report certain information concerning the use of unmanned aerial vehicles to the Legislature and the Administrative Office of the Courts and for law enforcement agencies and the Attorney General to post certain information on their publicly accessible websites.

Committee Amendment "A" (S-281)

This amendment is the majority report of the Joint Standing Committee on Judiciary. It replaces the bill.

This amendment includes a legislative findings subsection to recognize the potential benefits and risks of the evolving technology of unmanned aerial vehicles.

This amendment defines "unmanned aerial vehicle" to include the capability of performing audio and visual surveillance. It requires the governing body of the law enforcement agency to approve of the acquisition of an unmanned aerial vehicle by the law enforcement agency. It requires that a law enforcement agency must comply with Federal Aviation Administration requirements when operating an unmanned aerial vehicle.

This amendment creates a moratorium on the use of unmanned aerial vehicles by law enforcement agencies until July 1, 2014. On or after July 1, 2014, a law enforcement agency may operate an unmanned aerial vehicle only after it has adopted the standards established by the Board of Trustees of the Maine Criminal Justice Academy. There is an exception for the use of an unmanned aerial vehicle in emergency search or rescue operations when the Governor or the chief administrative officer of a law enforcement agency or the chief administrative officer's designee determines that the use is necessary to alleviate immediate danger to any person. Unmanned aerial vehicles can be used as part of training exercises to prepare for such emergencies. In addition, a law enforcement agency may use unmanned aerial vehicles for purposes other than the investigation of crimes, such as damage assessment, traffic accident assessment, flood stage assessment and wildfire assessment.

This amendment prohibits a law enforcement agency from using a weaponized unmanned aerial vehicle.

This amendment requires the Board of Trustees of the Maine Criminal Justice Academy to establish minimum standards for written policies and protocols for use of unmanned aerial vehicles. In developing the standards, the board of trustees is directed to take into account individuals' reasonable expectation of privacy under the

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Fourth Amendment of the United States Constitution. The board of trustees shall also review the options for collecting and reporting information on the use of unmanned aerial vehicles. The board of trustees is required to report to the Joint Standing Committee on Judiciary by December 31, 2013 concerning the minimum standards for written policies or protocols for use of unmanned aerial vehicles by law enforcement agencies, recommendations to ensure that individuals' reasonable expectation of privacy is protected and recommendations for the appropriate collection and reporting of information on the use of unmanned aerial vehicles.

The Joint Standing Committee on Judiciary is authorized to report out legislation to the Second Regular Session of the 126th Legislature upon receipt of the report.

This amendment was not adopted.

Committee Amendment "B" (S-282)

This amendment is the minority report of the Joint Standing Committee on Judiciary. It replaces the bill.

This amendment retains a broad definition of "unmanned aerial vehicle."

This amendment requires approval of the acquisition of an unmanned aerial vehicle by the governing body of a law enforcement agency. It prohibits a law enforcement agency from operating an unmanned aerial vehicle or collecting, disclosing or receiving information acquired through the operation of an unmanned aerial vehicle except when pursuant to an emergency enforcement or administrative investigation exception, with the written consent of the person or property owner, pursuant to a warrant or pursuant to a court order.

This amendment prohibits the operation of an unmanned aerial vehicle that employs the use of facial recognition technology or that is equipped with a weapon except for research and development purposes.

This amendment provides for emergency enforcement exceptions to the use of an unmanned aerial vehicle without a warrant or court order. An emergency enforcement exception may be required because a situation exists that threatens national security, state or local security or the life or safety of one or more individuals. When a law enforcement agency has used an unmanned aerial vehicle to collect or receive information under an emergency enforcement exception, the law enforcement agency is required to document the factual basis for the emergency enforcement exception in an affidavit that the law enforcement agency retains.

This amendment provides for administrative investigation exceptions for the use of an unmanned aerial vehicle by the State or any political subdivision of the State to investigate and respond to natural disasters, to monitor the status of dams and flood-control systems, to conduct surveys, including but not limited to surveys conducted by the Maine Geological Survey, and to aid in weather forecasting.

This amendment provides that if the operation of an unmanned aerial vehicle is started before a warrant or court order is obtained and the information being sought is collected before the warrant or court order is obtained, the law enforcement agency must immediately terminate the operation of the unmanned aerial vehicle. If the warrant or court order is denied, the law enforcement agency must immediately terminate the operation of the unmanned aerial vehicle and the law enforcement agency may not retain or disclose any information obtained from the operation of the unmanned aerial vehicle.

When a warrant or court order is sought, the law enforcement agency may request an order delaying the notice required under the Maine Rules of Criminal Procedure. The delay may not exceed 10 days, and 10-day extensions may be granted. When the order for delayed notice has expired, the law enforcement agency is required to provide the notice to the person about whom the information was collected. The notice must include the nature of the law enforcement inquiry, the information that was collected and the justification for the delay.

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This amendment creates a private right of action against a law enforcement agency for violations of the new law. A person may collect compensatory damages plus up to \$5,000 and reasonable attorney's fees and court costs.

Senate Amendment "A" To Committee Amendment "B" (S-285)

This amendment imposes a moratorium until July 1, 2015 on the use of unmanned aerial vehicles by law enforcement agencies. The moratorium does not apply to specified emergency situations.

House Amendment "A" To Committee Amendment "B" (H-540)

This amendment imposes a moratorium until July 1, 2015 on the use of unmanned aerial vehicles by law enforcement agencies. The moratorium does not apply to specified emergency situations.

This amendment was not adopted.

Senate Amendment "A" To Committee Amendment "A" (S-299)

This amendment requires the Joint Standing Committee on Judiciary to report out legislation based on the report of the Board of Trustees of the Maine Criminal Justice Academy.

This amendment was not adopted.

House Amendment "B" To Committee Amendment "B" (H-563)

This amendment adds to the list of allowed uses of unmanned aerial vehicles the deployment of an unmanned aerial vehicle or any component parts by a manufacturer, subcontractor of a manufacturer, testing company or educational institution for the purposes of research, testing, training or manufacture of such vehicles, and exempts a manufacturer or subcontractor, testing company or educational institution deploying an unmanned aerial vehicle for such research, testing, training or manufacturing purposes from the prohibition on the use of facial recognition technology or equipping a vehicle with weapons.

LD 258	An Act To Implement the Recommendations of the Right To Know Advisory Committee Concerning Meetings of Public Bodies	ONTP
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Sponsor(s)

Committee Report

Amendments Adopted

ONTP

This bill implements the majority recommendation of the Right To Know Advisory Committee concerning public meetings.

Part A authorizes the use of remote-access technology to conduct public proceedings. Subject to specific requirements, it authorizes a body to conduct a public proceeding during which a member of the body participates in the discussion or transaction of public or government business through telephonic, video, electronic or other similar means of communication.

Under current law, the following state agencies are authorized to use remote-access technology to conduct meetings: the Finance Authority of Maine, the Commission on Governmental Ethics and Election Practices, the Emergency Medical Services' Board and the Workers' Compensation Board. Part B provides a specific exemption from the new requirements for the Small Enterprise Growth Board, the Emergency Medical Services' Board and the Workers' Compensation Board.