

## ALLOW MACKINAC ISLAND TO REGULATE DRONES

Phone: (517) 373-8080  
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**Senate Bill 129 (H-5) as reported from House committee**

**Sponsor: Sen. Wayne Schmidt**

**1st House Committee: Transportation**

**2nd House Committee: Ways and Means**

**Senate Committee: Transportation and Infrastructure**

**Complete to 6-12-19**

Analysis available at  
<http://www.legislature.mi.gov>

*(Enacted as Public Act 32 of 2019)*

### SUMMARY:

Senate Bill 129 would amend the Unmanned Aircraft Systems Act to allow Mackinac Island to enact and enforce an ordinance to prohibit certain uses of unmanned aircraft (i.e., drones).

Section 5 of the act currently prohibits local units of government or other public corporations or authorities from regulating the ownership or operation of drones.

Under the bill, a political subdivision that prohibits the operation of nonemergency motor vehicles (i.e., Mackinac Island) could enact and enforce an ordinance or other regulation to prohibit the knowing and intentional operation of a drone in a manner that interferes with the safe use of a horse in a commercial activity (e.g., a horse-drawn carriage, wagon, or cart or horse-riding activities).

The bill specifies that such a regulation would have to allow for the operation of a drone for any of the following purposes if that operation did not interfere with a horse as described above and if it complied with Federal Aviation Administration (FAA) regulations:

- Newsgathering by a Federal Communications Commission (FCC) licensee.
- Insurance purposes by an insurance company or adjuster.
- Maintenance performed by a *public utility* or an *independent transmission company*.
- Law enforcement.

*Public utility* would mean an entity providing steam, heat, electric, power, gas, water, wastewater, telecommunications, video, cable, or internet access services.

*Independent transmission company* would mean an entity that is engaged in the transmission of electricity using facilities divested to it by an electric utility and that is independent of an electric utility generating or distributing electricity to retail customers (e.g., American Transmission Company).

Mackinac Island would have to petition the FAA for designation as a *fixed site facility* no later than 12 months after the effective date of the FAA rules that govern the processing of petitions for such a designation. The exception allowing local regulation as described above would no longer apply once the FAA designation of Mackinac Island as a fixed site facility was in effect.

*Fixed site facilities:* Section 2209 of the FAA Extension, Safety and Security Act of 2016 requires the FAA to develop a process by which to restrict the operation of drones

above or near fixed site facilities where unauthorized drone use could present a hazard or a threat. The section limits consideration as a fixed site facility to the following: (i) Critical infrastructure, such as energy production, transmission, distribution facilities and equipment, and railroad facilities. (ii) Oil refineries and chemical facilities. (iii) Amusement parks. (iv) Other locations that warrant such restrictions. The FAA's final rules to carry out the requirements of section 2209 are supposed to be issued by March 31, 2020. Of note, section 45a of the Michigan Penal Code currently prohibits a person from flying a drone, or causing one to hover, over a fixed site facility.

MCL 295.305

#### **HOUSE COMMITTEE ACTION:**

The House Committee on Ways and Means reported an H-5 substitute for the bill. The bill as passed by the Senate would have exempted Mackinac Island from the act's prohibition against local ordinances that regulate drones, while not allowing it to prohibit drone use by certain newsgatherers or by insurance or utility companies for certain purposes. The House substitute, as described above, would allow Mackinac Island to enact an ordinance as necessary to prohibit the knowing use of a drone in a way that interferes with a horse, while requiring it to allow for the lawful use of drones by newsgatherers, insurers, utilities, or law enforcement.

#### **FISCAL IMPACT:**

The bill would have no fiscal impact on state or local government.

#### **POSITIONS:**

The City of Mackinac Island indicated support for the bill. (5-7-19)

The Michigan Retailers Association indicated support for the bill. (5-7-19)

The Department of Transportation indicated a neutral position on the bill. (6-3-19)

A representative of the Michigan Coalition of Drone Operators testified in opposition to the bill. (5-7-19)

Legislative Analyst: E. Best  
Fiscal Analyst: Ben Gielczyk

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.