

USE OF DRONES TO SURVEIL FACILITIES

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Senate Bill 1233 (S-1) as reported from House committee

Sponsor: Sen. Peter MacGregor

House Committee: Communications and Technology

Senate Committee: Transportation

Complete to 12-12-18

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

SUMMARY:

Senate Bill 1233 would amend the Unmanned Aircraft Systems Act to generally prohibit the use of an unmanned aircraft system (“drone”) to surveil, inspect, or gather evidence or collect information about certain facilities.

Under the bill, a department, agency, board, or commission of Michigan or a person under contract with or acting at the direction of or on behalf of such a body (hereinafter referred to as an “entity”) would be prohibited from using a drone to surveil, inspect, or gather evidence or collect information about a facility that is subject to a permit, license, or order issued by or a decree or other requirement governed by that department, agency, board, or commission. However, the following exceptions would apply:

- If the owner or operator of the facility has given express consent in a particular instance.
- If the entity is acting under a valid search warrant and the use of the drone is strictly limited to the subject matter and scope of that warrant.
- If the department, agency, board, or commission has reason to believe that there could be an imminent threat to public health, safety, property, or the natural resources of Michigan from the facility and the use of the drone is both strictly limited to the investigation of that threat and under the direct supervision of the department, agency, board, or commission.
- The entity is inspecting a roadway, highway, airport, airport approach corridor, port, or similar infrastructure.

Additionally, the drone used for the purposes listed above would have to be clearly marked as a state-owned or state-operated aircraft, *unless* it were operated under express consent by the owner or operator of the facility and in compliance with Federal Aviation Administration regulations, authorizations, or exemptions to gather information of a quality and nature sufficient for the intended purpose of the surveillance, inspection, evidence gathering, or information collection.

Any data, including videos, photos, or geospatial data, collected by the operation of a drone concerning a facility under this bill would have to be promptly given to the facility’s owner or operator, but only upon request. The data also would be rebuttably presumed to be exempt from disclosure under the Freedom of Information Act.

Finally, the bill would not apply to a law enforcement agency operating a drone as part of a law enforcement investigation.

The bill would take effect 90 days after enactment.

Proposed MCL 259.307

HOUSE COMMITTEE ACTION:

The House Committee on Communications and Technology reported the Senate-passed version of the bill without amendment.

FISCAL IMPACT:

The bill would have no apparent fiscal impact on the state of Michigan or on local units of government.

POSITIONS:

Representatives of the following organizations testified in support of the bill (12-11-18):

- Michigan Chemistry Council
- Michigan Manufacturers Association

The following organizations indicated support for the bill (12-11-18):

- Michigan State Police
- Michigan Petroleum Association
- Michigan Propane Gas Association
- DOW Chemical
- Oakland County Sheriff's Office
- Michigan Sheriff's Association
- Michigan Chamber of Commerce

A representative of the Michigan Department Environmental Quality testified with no position on the bill. (12-11-18)

The Michigan Department of Transportation indicated no position on the bill. (12-11-18)

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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.