

STATE USE OF DRONES TO SURVEIL FACILITIES

Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

Senate Bill 1233 as enacted

Public Act 442 of 2018

Sponsor: Sen. Peter MacGregor

House Committee: Communications and Technology

Senate Committee: Transportation

Complete to 5-8-19

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

SUMMARY:

Senate Bill 1233 adds section 7 to the Unmanned Aircraft Systems Act to prohibit the use of a drone by state entities to surveil, inspect, or gather evidence or collect information about certain facilities.

The bill prohibits a department, agency, board, or commission of the state (or a person under contract with such a body or acting at its direction or on its behalf) from using a drone to surveil, inspect, or gather evidence or information about a facility that is subject to a permit, license, or order issued by, or another requirement governed by, that department, agency, board, or commission. However, the prohibition does not apply in the following circumstances:

- 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 strictly limited to the investigation of that threat and is 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, a drone used as above must be clearly marked as a state-owned or state-operated aircraft, unless it is owned and operated by the facility's owner or operator as described below.

If an owner or operator withholds consent, the owner or operator must provide to the department, agency, board, or commission a written statement indicating the health and safety reasons for withholding consent.

A facility owner or operator may consent on the condition of using a drone it owns and operates. The state entity must allow, under its direct supervision, use of the drone by the owner or operator to conduct the surveillance, inspection, or information gathering if doing so will provide data of a quality and nature sufficient for the intended purpose of the

surveillance, inspection, or information gathering. An owner or operator that gives conditional consent as described above must also provide to the department, agency, board, or commission a written statement indicating the health and safety reasons for doing so.

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

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

The bill took effect March 21, 2019.

MCL 259.307

FISCAL IMPACT:

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

Legislative Analyst: Emily S. Smith
Fiscal Analyst: William E. Hamilton

■ 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.