A-Engrossed
House Bill 2710

Ordered by the Senate June 5
Including Senate Amendments dated June 5

Sponsored by Representative HUFFMAN; Representative WHISNANT, Senator SHIELDS

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

[*Provides that drone may be used by law enforcement agency for purpose of surveillance of person only pursuant to warrant or in emergency circumstances. Provides that law enforcement agency may use drone to intercept communications only as provided under laws relating to wiretaps and other interceptions of communications.*]

[*Requires destruction of images and other information acquired by use of drone within 30 days unless information is needed as evidence in criminal prosecution.*]

[*Requires that public bodies that use drones adopt policies on use of drones. Requires procedure for notifying public of policies on use of drones.*]

[*Prohibits use of weaponized drones by public bodies.*]

Provides that law enforcement agencies may use drones only as specified by law. Allows use of drones by law enforcement agencies pursuant to warrant and under other specified circumstances.

Requires that public body operating drone must register drone with Oregon Department of Aviation. Requires reports on use of registered drone by public body. Provides that registration requirement becomes operative January 2, 2016.

NOT UNTIL 2016

Prohibits use of weaponized drone by public body.

Limits use of information acquired by drone as evidence if drone not approved by Federal Aviation Administration.

Establishes crimes and civil remedies related to use of drones and interference with drones.

Preempts local regulation of drones.

Declares emergency, effective on passage.

A BILL FOR AN ACT

Relating to drones; and declaring an emergency.

Be It Enacted by the People of the State of Oregon:

DEFINITIONS

<u>SECTION 1.</u> As used in sections 1 to 17 of this 2013 Act:

(1) "Drone" means an unmanned flying machine. "Drone" does not include a model aircraft as defined in section 336 of the FAA Modernization and Reform Act of 2012 (P.L. 112-95) as in effect on the effective date of this 2013 Act.

(2) "Law enforcement agency" means an agency that employs police officers, as defined in ORS 133.525, or that prosecutes offenses.

(3) "Public body" has the meaning given that term in ORS 174.109.

(4) "Warrant" means a warrant issued under ORS 133.525 to 133.703.

USE OF DRONES BY LAW ENFORCEMENT AGENCIES

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

SECTION 2. (1) Except as otherwise provided in sections 2 to 7 of this 2013 Act, a law enforcement agency may not operate a drone, acquire information through the operation of a drone or disclose information acquired through the operation of a drone.

(2) Any image or other information that is acquired through the use of a drone by a law enforcement agency in violation of sections 2 to 7 of this 2013 Act, and any evidence derived from that image or information:

(a) Is not admissible in, and may not be disclosed in, a judicial proceeding, administrative proceeding, arbitration proceeding or other adjudicatory proceeding; and

(b) May not be used to establish reasonable suspicion or probable cause to believe that an offense has been committed.

SECTION 3. (1) A law enforcement agency may operate a drone, acquire information through the operation of a drone, or disclose information acquired through the operation of a drone, if:

(a) A warrant is issued authorizing use of a drone;

(b) The law enforcement agency has probable cause to believe that a crime is being committed at the time the drone is used and exigent circumstances exist that make it unreasonable for the law enforcement agency to obtain a warrant authorizing use of a drone;

(c) The law enforcement agency has probable cause to believe that the targeted individual intends to commit a crime and circumstances exist that prevent the law enforcement agency from acquiring a warrant, authorizing use of a drone, before the time at which the law enforcement agency believes the crime will be committed; or

(d) The drone is used to track an individual fleeing the scene of a crime.

(2) A warrant authorizing the use of a drone must specify the period for which operation of the drone is authorized. In no event may a warrant provide for the operation of a drone for a period of more than 30 days. Upon motion and good cause shown, a court may renew a warrant after the expiration of the 30-day period.

SECTION 4. A law enforcement agency may operate a drone for the purpose of acquiring information about an individual, or about the individual's property, if the individual has given written consent to the use of a drone for those purposes.

SECTION 5. (1) A law enforcement agency may operate a drone, acquire information through the operation of a drone, or disclose information acquired through the operation of a drone, for the purpose of search and rescue activities, as defined in ORS 404.200.

(2) A law enforcement agency may operate a drone, acquire information through the operation of a drone, or disclose information acquired through the operation of a drone, for the purpose of assisting an individual in an emergency if:

(a) The law enforcement agency reasonably believes that there is an imminent threat to the life or safety of the individual, and documents the factual basis for that belief; and

(b) Not more than 48 hours after the emergency operation begins, an official of the law enforcement agency files a sworn statement with the circuit court that describes the nature of the emergency and the need for use of a drone.

(3) A law enforcement agency may operate a drone, acquire information through the operation of a drone, or disclose information acquired through the operation of a drone, during a state of emergency that is declared by the Governor under ORS chapter 401 if:

(a) The drone is used only for the purposes of preserving public safety, protecting property or conducting surveillance for the assessment and evaluation of environmental or

weather related damage, erosion or contamination; and

(b) The drone is operated only in the geographical area specified in a proclamation pursuant to ORS 401.165 (5).

SECTION 6. (1) A law enforcement agency may operate a drone, acquire information through the operation of a drone, or disclose information acquired through the operation of a drone, for the purpose of reconstruction of a specific crime scene, or similar physical assessment, related to a specific criminal investigation.

(2) The period that a law enforcement agency may operate a drone under this section may not exceed five days for the purpose of reconstruction of a specific crime scene, or similar physical assessment, related to a specific criminal investigation.

SECTION 7. A law enforcement agency may operate a drone for the purpose of training in:

(1) The use of drones; and

(2) The acquisition of information through the operation of a drone.

REGISTRATION OF DRONES USED BY PUBLIC BODIES

SECTION 8. (1) A public body may not operate a drone in the airspace over this state without registering the drone with the Oregon Department of Aviation.

(2) The Oregon Department of Aviation may impose a civil penalty of up to $10,000 against a public body that violates subsection (1) of this section.

(3) Evidence obtained by a public body through the use of a drone in violation of subsection (1) of this section is not admissible in any judicial or administrative proceeding and may not be used to establish reasonable suspicion or probable cause to believe that an offense has been committed.

(4) The Oregon Department of Aviation shall establish a registry of drones operated by public bodies and may charge a fee sufficient to reimburse the department for the maintenance of the registry.

(5) The Oregon Department of Aviation shall require the following information for registration of a drone:

(a) The name of the public body that owns or operates the drone.

(b) The name and contact information of the individuals who operate the drone.

(c) Identifying information for the drone as required by the department by rule.

(6) A public body that registers one or more drones under this section shall provide an annual report to the Oregon Department of Aviation that summarizes:

(a) The frequency of use of the drones by the public body during the preceding calendar year; and

(b) The purposes for which the drones have been used by the public body during the preceding calendar year.

(7) The State Aviation Board may adopt all rules necessary for the registration of drones in Oregon that are consistent with federal laws and regulations.

SECTION 9. (1) Except as provided in subsection (2) of this section, section 8 of this 2013 Act becomes operative January 2, 2016.

(2) The Oregon Department of Aviation and the State Aviation Board may take any action before January 2, 2016, including the adoption of rules, that is necessary to allow im-

plementation of section 8 of this 2013 Act on January 2, 2016.

PROHIBITION ON USE OF WEAPONIZED DRONES BY PUBLIC BODIES

SECTION 10. A public body may not operate a drone that is capable of firing a bullet or other projectile, directing a laser or otherwise being used as a weapon.

USE OF INFORMATION ACQUIRED BY PUBLIC BODY DRONES

SECTION 11. Any image or other information that is acquired by a public body through the use of a drone that has not been approved by the Federal Aviation Administration, and any evidence derived from that image or information:

(1) Is not admissible in, and may not be disclosed in, a judicial proceeding, administrative proceeding, arbitration proceeding or other adjudicatory proceeding; and

(2) May not be used to establish reasonable suspicion or probable cause to believe that an offense has been committed.

SECTION 12. Section 11 of this 2013 Act is repealed January 2, 2016.

CRIMES INVOLVING DRONES

SECTION 13. (1) A person commits a Class A felony if the person possesses or controls a drone and intentionally causes, or attempts to cause, the drone to:

(a) Fire a bullet or other projectile at an aircraft while the aircraft is in the air;

(b) Direct a laser at an aircraft while the aircraft is in the air; or

(c) Crash into an aircraft while the aircraft is in the air.

(2) A person who intentionally interferes with, or gains unauthorized control over, a drone licensed by the Federal Aviation Administration, or operated by the Armed Forces of the United States as defined in ORS 351.642, an agency of the United States or a federal, state or local law enforcement agency, commits a Class C felony.

CIVIL REMEDIES

SECTION 14. In addition to any other remedies allowed by law, a person who intentionally interferes with, or gains unauthorized control over, a drone licensed by the Federal Aviation Administration, or operated by the Armed Forces of the United States as defined in ORS 351.642, an agency of the United States or a federal, state or local law enforcement agency, is liable to the owner of the drone in an amount of not less than $5,000. The court shall award reasonable attorney fees to a prevailing plaintiff in an action under this section.

CANT INTERFERE W/ LEGAL OPERATION

SECTION 15. (1) Except as provided in subsection (2) of this section, a person who owns or lawfully occupies real property in this state may bring an action against any person or public body that operates a drone that is flown at a height of less than 400 feet over the property if:

TOUGH TO ENFORCE FEDERAL PREEMPTION

(a) The operator of the drone has flown the drone over the property at a height of less than 400 feet on at least one previous occasion; and

(b) The person notified the owner or operator of the drone that the person did not want the drone flown over the property at a height of less than 400 feet.

(2) A person may not bring an action under this section if:

(a) The drone is lawfully in the flight path for landing at an airport, airfield or runway; and

(b) The drone is in the process of taking off or landing.

(3) A prevailing plaintiff may recover treble damages for any injury to the person or the property by reason of a trespass by a drone as described in this section, and may be awarded injunctive relief in the action.

(4) A prevailing plaintiff may recover attorney fees under ORS 20.080 if the amount pleaded in an action under this section is $10,000 or less.

(5) The Attorney General, on behalf of the State of Oregon, may bring an action or claim for relief alleging nuisance or trespass arising from the operation of a drone in the airspace over this state. A court shall award reasonable attorney fees to the Attorney General if the Attorney General prevails in an action under this section.

APPLICABILITY TO ARMED FORCES

SECTION 16. Sections 1 to 17 of this 2013 Act do not apply to the Armed Forces of the United States as defined in ORS 351.642.

PREEMPTION OF LOCAL LAWS REGULATING DRONES

SECTION 17. Except as expressly authorized by state statute, the authority to regulate the ownership or operation of drones is vested solely in the Legislative Assembly. Except as expressly authorized by state statute, a local government, as defined ORS 174.116, may not enact an ordinance or resolution that regulates the ownership or operation of drones or otherwise engage in the regulation of the ownership or operation of drones.

REPORT TO LEGISLATURE

DDA REPORT TO LEGISLATURE

SECTION 18. On or before November 1, 2014, the Oregon Department of Aviation shall report to a joint interim committee of the Legislative Assembly related to the judiciary, or other appropriate interim committees, on:

(1) The status of federal regulations relating to unmanned aerial vehicles; and

(2) Whether unmanned aerial vehicles operated by private parties should be registered in Oregon in a manner similar to that required for other aircraft.

CAPTIONS

SECTION 19. The unit captions used in this 2013 Act are provided only for the convenience of the reader and do not become part of the statutory law of this state or express any legislative intent in the enactment of this 2013 Act.

EMERGENCY CLAUSE

1 **<u>SECTION 20.</u> This 2013 Act being necessary for the immediate preservation of the public**
2 **peace, health and safety, an emergency is declared to exist, and this 2013 Act takes effect**
3 **on its passage.**
4

HB 2710-A9
(LC 1387)
6/24/13 (DH/ps)

PROPOSED CONFERENCE COMMITTEE AMENDMENTS TO A-ENGROSSED HOUSE BILL 2710

1 On page 2 of the printed A-engrossed bill, line 14, after the semicolon
2 insert "or".
3 Delete lines 15 through 22 and insert:
4 "(b) The law enforcement agency has probable cause to believe that a
5 person has committed a crime, is committing a crime or is about to commit
6 a crime, and exigent circumstances exist that make it unreasonable for the
7 law enforcement agency to obtain a warrant authorizing use of a drone.".
8 On page 3, delete lines 11 through 14 and insert:
9 **"SECTION 7. (1) A law enforcement agency may operate a drone for**
10 **the purpose of training in:**
11 **"(a) The use of drones; and**
12 **"(b) The acquisition of information through the operation of a**
13 **drone.**
14 **"(2) Any image or other information that is acquired through the**
15 **use of a drone by a law enforcement agency under this section, and**
16 **any evidence derived from that image or information:**
17 **"(a) Is not admissible in, and may not be disclosed in, a judicial**
18 **proceeding, administrative proceeding, arbitration proceeding or other**
19 **adjudicatory proceeding; and**
20 **"(b) May not be used to establish reasonable suspicion or probable**
21 **cause to believe that an offense has been committed.".**
22