

AMENDED IN ASSEMBLY JANUARY 9, 2014

AMENDED IN ASSEMBLY APRIL 29, 2013

AMENDED IN ASSEMBLY APRIL 18, 2013

AMENDED IN ASSEMBLY APRIL 3, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1327

**Introduced by Assembly Members Gorell and Bradford
(Principal coauthor: Assembly Member Muratsuchi)
(Coauthor: Assembly Member Fox)**

February 22, 2013

An act to add Title 14 (commencing with Section 14350) to Part 4 of the Penal Code, *and to add Section 6254.31 to the Government Code*, relating to unmanned aircraft systems.

LEGISLATIVE COUNSEL'S DIGEST

AB 1327, as amended, Gorell. Unmanned aircraft systems.

Existing federal law, the Federal Aviation Administration Modernization and Reform Act of 2012, provides for the integration of civil unmanned aircraft systems, commonly known as drones, into the national airspace system by September 30, 2015. Existing federal law requires the Administrator of the Federal Aviation Administration to develop and implement operational and certification requirements for the operation of public unmanned aircraft systems in the national airspace system by December 31, 2015.

This bill would generally prohibit public agencies from using unmanned aircraft systems, or contracting for the use of unmanned aircraft systems, as defined, with certain exceptions applicable to law

enforcement agencies and in certain other cases, and would generally require a warrant for the use of an unmanned aircraft system by law enforcement to block or interfere with electronic communications, as specified, with certain exceptions. The bill would require the acquisition of an unmanned aircraft system, or a contract for the use of an unmanned aircraft system, for authorized purposes by a local public agency to be subject to the specific approval of the applicable local public agency's legislative body. The bill would require a local legislative body, in approving the acquisition or purchase, to also adopt policies governing the use and deployment of the unmanned aircraft system. The bill would require a state agency that uses an unmanned aircraft system, or contracts for the use of an unmanned aircraft system, to provide, no later than January 1 of each year, an annual report to the Governor that includes, but is not limited to, the agency's acquisitions, purchases, rentals, or leases of unmanned aircraft systems.

Because this bill would expand the duties of local law enforcement officials and local public officials and the scope of existing investigatory activities, the bill would impose a state-mandated local program.

The bill would authorize the Department of Forestry and Fire Protection (CAL-FIRE) to use unmanned aircraft systems, or contract for the use of unmanned aircraft systems, for fire-related activities. The bill would require reasonable public notice to be provided by public agencies intending to deploy unmanned aircraft systems, as specified. The bill would require images, footage, or data obtained through the use of an unmanned aircraft system under these provisions to be permanently destroyed within 10 days 6 months, except for training purposes, as specified, or pursuant to an order of a court. The *as specified. Unless authorized by federal law, the* bill would prohibit a person or entity, including a public agency subject to these provisions, or a person or entity under contract to a public agency, for the purpose of that contract, from equipping or arming an unmanned aircraft system with a weapon or other device that may be carried by or launched from an unmanned aircraft system and that *may is intended to* cause bodily injury or death, or damage to, or the destruction of, real or personal property.

The bill would make the restrictions that are applicable to the use of an unmanned aircraft system by a law enforcement agency also applicable to any person, entity, or public agency that uses, operates, or contracts for an unmanned aircraft system.

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.~~

~~With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.~~

Existing law, the California Public Records Act, requires state and local agencies to make public records available for inspection, subject to certain exceptions.

This bill would make images, footage, or data obtained through the use of an unmanned aircraft system under its provisions, or any record, including, but not limited to, usage logs or logs that identify any person or entity that subsequently obtains or requests records of that system, subject to disclosure.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: *yes-no*.

The people of the State of California do enact as follows:

1 SECTION 1. Title 14 (commencing with Section 14350) is
2 added to Part 4 of the Penal Code, to read:

3
4 TITLE 14. UNMANNED AIRCRAFT SYSTEMS

5
6 14350. (a) A public agency shall not use an unmanned aircraft
7 system, or contract for the use of an unmanned aircraft system,
8 except as provided in this title. *This title shall apply to all public*
9 *and private entities when contracting with a public agency for the*
10 *use of an unmanned aircraft system.*

11 (b) A law enforcement agency may use an unmanned aircraft
12 system ~~if it has a reasonable expectation that the unmanned aircraft~~
13 ~~system will collect evidence relating to criminal activity and if it~~
14 ~~has obtained a warrant based on probable cause pursuant to this~~
15 ~~code.~~

16 (c) (1) A law enforcement agency, without obtaining a warrant,
17 may use an unmanned aircraft system in emergency situations if
18 there is an imminent threat to life or of great bodily harm,

1 including, but not limited to, fires, hostage crises, “hot pursuit”
2 situations if reasonably necessary to prevent harm to law
3 enforcement officers or others, and search and rescue operations
4 on land or water.

5 (2) A law enforcement agency, without obtaining a warrant,
6 may use an unmanned aircraft system to assess the necessity of
7 first responders in situations relating to traffic accidents—or, to
8 inspect state parks *and wilderness areas* for illegal vegetation, *or*
9 *fires*.

10 ~~(d) (1) Except as otherwise provided in paragraph (2), a law~~
11 ~~enforcement agency may use an unmanned aircraft system to block,~~
12 ~~interfere with, or otherwise control communication or data signals~~
13 ~~of electronic devices only if it has obtained an order signed by a~~
14 ~~judicial officer obtained prior to the interruption and consistent~~
15 ~~with the following:~~

16 ~~(A) The order shall include all of the following:~~

17 ~~(i) That probable cause exists that the service is being or will~~
18 ~~be used for an unlawful purpose or to assist in a violation of the~~
19 ~~law.~~

20 ~~(ii) That absent immediate and summary action to interrupt~~
21 ~~communications service, serious, direct, immediate, and irreparable~~
22 ~~danger to public safety will result.~~

23 ~~(iii) That the interruption of communications service is narrowly~~
24 ~~tailored to prevent unlawful infringement of speech that is protected~~
25 ~~by the First Amendment to the United States Constitution, or~~
26 ~~Section 2 of Article I of the California Constitution, or a violation~~
27 ~~of any other rights under federal or state law.~~

28 ~~(B) The order shall clearly describe the specific communications~~
29 ~~service to be interrupted with sufficient detail as to customer, cell~~
30 ~~sector, central office, or geographical area affected, shall be~~
31 ~~narrowly tailored to the specific circumstances under which the~~
32 ~~order is made, and shall not interfere with more communication~~
33 ~~than is necessary to achieve the purposes of the order.~~

34 ~~(C) The order shall authorize an interruption of service only for~~
35 ~~as long as is reasonably necessary and shall require that the~~
36 ~~interruption cease once the danger that justified the interruption~~
37 ~~is abated and shall specify a process to immediately serve notice~~
38 ~~on the communications service provider to cease the interruption.~~

39 ~~(2) A law enforcement agency shall not use an unmanned aircraft~~
40 ~~system to block, interfere with, or otherwise control communication~~

1 or data signals of electronic devices without a court order except
2 pursuant to this paragraph.

3 ~~(A) If a government entity reasonably determines that an~~
4 ~~extreme emergency situation exists that involves immediate danger~~
5 ~~of death and there is insufficient time, with due diligence, to first~~
6 ~~obtain a court order, the government entity may interrupt~~
7 ~~communications service without first obtaining a court order as~~
8 ~~otherwise required by this section, provided that the interruption~~
9 ~~meets the grounds for issuance of a court order pursuant to~~
10 ~~paragraph (1) and that the entity does all of the following:~~

11 ~~(i) Apply for a court order without delay, and in no event, later~~
12 ~~than two hours after commencement of an interruption of~~
13 ~~communications service.~~

14 ~~(ii) Provide to the provider of communications service involved~~
15 ~~in the service interruption a statement of intent, signed by an~~
16 ~~authorized official of the governmental entity, to apply for a court~~
17 ~~order. The statement of intent shall clearly describe the extreme~~
18 ~~emergency circumstances, and the specific communications service~~
19 ~~to be interrupted with sufficient detail as to the customer, cell~~
20 ~~sector, central office, or geographical area affected.~~

21 ~~(iii) Provide conspicuous notice of the application for a court~~
22 ~~order authorizing the communications service interruption on its~~
23 ~~Internet Web site without delay, unless the circumstances that~~
24 ~~justify interruption of communications service without first~~
25 ~~obtaining a court order to justify not providing the notice.~~

26 ~~(e)~~

27 ~~(d) (1) A public agency other than a law enforcement agency~~
28 ~~may use an unmanned aircraft system, or contract for the use of~~
29 ~~an unmanned aircraft system, for the purposes of geological~~
30 ~~inspections related to *achieve* the *core* mission of the agency or~~
31 ~~for the purpose of detecting oil spills *provided that the purpose is*~~
32 ~~*unrelated to the gathering of criminal intelligence.*~~

33 ~~(2) CAL FIRE may use unmanned aircraft systems, or contract~~
34 ~~for the use of unmanned aircraft systems, for fire-related activities.~~

35 ~~(3) Data collected pursuant to this subdivision shall not be~~
36 ~~disseminated outside the collecting agency or provided to a law~~
37 ~~enforcement agency unless the agency has obtained a warrant for~~
38 ~~the data based upon probable cause pursuant to this code.~~

39 ~~(2) *Except as permitted by this title and when a law enforcement*~~
40 ~~*agency is not required to obtain a warrant as specified in this title,*~~

1 *data collected pursuant to this subdivision shall not be*
2 *disseminated to a law enforcement agency unless the agency has*
3 *obtained a warrant for the data based on probable cause pursuant*
4 *to this code.*

5 ~~14351. (a) The acquisition of an unmanned aircraft system,~~
6 ~~or a contract for the use of an unmanned aircraft system, for~~
7 ~~purposes authorized by this title by a local public agency shall be~~
8 ~~subject to the specific approval of the applicable local public~~
9 ~~agency’s legislative body. The local legislative body, in approving~~
10 ~~the acquisition or purchase, shall also adopt policies governing the~~
11 ~~use and deployment of the unmanned aircraft system, consistent~~
12 ~~with this title.~~

13 ~~(b) A state agency that uses an unmanned aircraft system, or~~
14 ~~contracts for the use of an unmanned aircraft system, shall provide,~~
15 ~~no later than January 1 of each year, an annual report to the~~
16 ~~Governor that includes, but is not limited to, the agency’s~~
17 ~~acquisitions, purchases, rentals, or leases of unmanned aircraft~~
18 ~~systems and a description of each instance in which the unmanned~~
19 ~~aircraft system was deployed, including the purpose of the~~
20 ~~deployment and whether a warrant was obtained.~~

21 ~~14352.~~

22 *14351. A public agency that uses an unmanned aircraft system,*
23 *or contracts for the use of an unmanned aircraft system, pursuant*
24 *to this title shall first provide reasonable notice to the public.*
25 *Reasonable notice shall, at a minimum, consist of a one-time*
26 *announcement regarding the agency’s intent to deploy unmanned*
27 *aircraft system technology and a description of the technology’s*
28 *capabilities.*

29 ~~14353.~~

30 *14352. (a) Images, Except as permitted by this title, images,*
31 *footage, or data obtained by a public agency, or any entity*
32 *contracting with a public agency, through the use of an unmanned*
33 *aircraft system shall not be disseminated outside the collecting*
34 *agency, and shall not be used by the agency for any purpose other*
35 *than that for which it was collected. Images, footage, or data*
36 *obtained through the use of an unmanned aircraft system shall be*
37 *permanently destroyed within 10 days six months, except if retained*
38 *that a public agency may retain the images, footage, or data for*
39 *training purposes or if and shall retain any image, footage, or data*
40 *if a warrant authorized its collection of or access to or if the images,*

1 footage, or data *are evidence in any claim filed or any pending*
2 *litigation.*

3 ~~(b) (1) Images, footage, or data retained by a public agency~~
4 ~~shall be open to public inspection, unless expressly exempt by law.~~

5 ~~(2)~~

6 *(b) Images, footage, or data retained for training purposes shall*
7 *be used only for the education and instruction of an agency's*
8 *employees in matters related to the mission of the agency and for*
9 *no other purpose.*

10 ~~14354. A law enforcement agency shall only view data gathered~~
11 ~~by a person or entity using an unmanned aircraft system, or a~~
12 ~~person under contract to a public agency, if the law enforcement~~
13 ~~agency has obtained a warrant or has the permission or approval~~
14 ~~of that person or entity, or person under contract to a public agency,~~
15 ~~provided that the data gathered by the person or entity was lawfully~~
16 ~~obtained.~~

17 ~~14354.5. A~~

18 *14353. Unless authorized by federal law, a person or entity,*
19 *including a public agency subject to Section 14350 or a person or*
20 *entity under contract to a public agency, for the purpose of that*
21 *contract, shall not equip or arm an unmanned aircraft system with*
22 *a weapon or other device that may be carried by or launched from*
23 *an unmanned aircraft system and that ~~may~~ is intended to cause*
24 *bodily injury or death, or damage to, or the destruction of, real or*
25 *personal property.*

26 *14354. All unmanned aircraft systems shall be operated so as*
27 *to minimize the collection of images, footage, or data of persons,*
28 *places, or things not specified with particularity in the warrant*
29 *authorizing the use of an unmanned aircraft system, or, if no*
30 *warrant was obtained, for purposes unrelated to the justification*
31 *for the operation.*

32 *14355. (a) Nothing in this title is intended to conflict with or*
33 *supersede federal law, including rules and regulations of the*
34 *Federal Aviation Administration.*

35 ~~(b) Nothing in this title prohibits a local agency from adopting~~
36 ~~A local legislative body may adopt more restrictive policies on the~~
37 ~~acquisition or use of unmanned aircraft systems for the protection~~
38 ~~of a person's privacy: systems.~~

39 ~~14356. As used in For the purposes of this title, "unmanned~~
40 ~~the following definitions shall apply:~~

1 (a) “Criminal intelligence” means information compiled,
 2 analyzed, or disseminated in an effort to anticipate, prevent,
 3 monitor, or investigate criminal activity.

4 (b) “Law enforcement agency” means the Attorney General of
 5 the State of California, each district attorney, and each agency of
 6 the State of California authorized by statute to investigate or
 7 prosecute law violators.

8 (c) “Public agency” means and includes each state agency and
 9 each local agency.

10 (d) “Unmanned aircraft system” means an unmanned aircraft
 11 and associated elements, including communication links and the
 12 components that control the unmanned aircraft, that are required
 13 for the pilot in command to operate safely and efficiently in the
 14 national airspace system.

15 14357. The surveillance restrictions on electronic devices
 16 pursuant to Chapter 1.5 (commencing with Section 630) of Title
 17 15 of Part 1 shall apply to unmanned aircraft systems.

18 ~~SEC. 2. No reimbursement is required by this act pursuant to~~
 19 ~~Section 6 of Article XIII B of the California Constitution for certain~~
 20 ~~costs that may be incurred by a local agency or school district~~
 21 ~~because, in that regard, this act creates a new crime or infraction,~~
 22 ~~eliminates a crime or infraction, or changes the penalty for a crime~~
 23 ~~or infraction, within the meaning of Section 17556 of the~~
 24 ~~Government Code, or changes the definition of a crime within the~~
 25 ~~meaning of Section 6 of Article XIII B of the California~~
 26 ~~Constitution.~~

27 ~~However, if the Commission on State Mandates determines that~~
 28 ~~this act contains other costs mandated by the state, reimbursement~~
 29 ~~to local agencies and school districts for those costs shall be made~~
 30 ~~pursuant to Part 7 (commencing with Section 17500) of Division~~
 31 ~~4 of Title 2 of the Government Code.~~

32 *SEC. 2. Section 6254.31 is added to the Government Code, to*
 33 *read:*

34 *6254.31. Notwithstanding any provision of this chapter, images,*
 35 *footage, or data obtained through the use of an unmanned aircraft*
 36 *system pursuant to subdivisions (c) or (d) of Section 14350 of the*
 37 *Penal Code, or any record, including, but not limited to, usage*
 38 *logs or logs that identify any person or entity that subsequently*
 39 *obtains or requests records of that system, is subject to disclosure.*

O