

ASSEMBLY, No. 1463

STATE OF NEW JERSEY 218th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2018 SESSION

Sponsored by:

Assemblyman DANIEL R. BENSON

District 14 (Mercer and Middlesex)

SYNOPSIS

Sets forth certain standards to be followed by law enforcement agencies and fire departments when utilizing drones.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 AN ACT concerning the use of unmanned aerial vehicles and
2 supplementing Title 2A of the New Jersey Statutes.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. a. As used in this act:

8 "Anti-personnel device" means a firearm or any prohibited
9 weapon or device defined under N.J.S.2C:39-3 or any other
10 projectile designed to harm, incapacitate, or otherwise negatively
11 impact a human being;

12 "Unmanned aerial vehicle" means an aerial vehicle that is owned
13 or operated by any branch of the Armed Forces of the United States
14 or any law enforcement agency, or agent or employee thereof, that
15 uses aerodynamic forces to propel the vehicle and does not carry a
16 human operator, and is capable of flying autonomously or being
17 piloted remotely and conducting surveillance as defined by this
18 section;

19 "Emergency" means any flood, hurricane, storm, tornado, high
20 water, wind-driven water, tidal wave, drought, fire, explosion, civil
21 disorder, act of terrorism, or other catastrophe which is or threatens
22 to be of sufficient severity and magnitude to substantially endanger
23 the health, safety and property of the citizens of this State; and

24 "Surveillance" means the act of monitoring, observing,
25 photographing, listening to, or making a recording of a person or
26 group of persons or their movements, activities and
27 communications.

28 b. No law enforcement agency shall utilize an unmanned aerial
29 vehicle to conduct surveillance or to gather any evidence or engage
30 in any other law enforcement activity within this State unless:

31 (1) pursuant to the authority of a judicially authorized search
32 warrant issued by a court of competent jurisdiction;

33 (2) the law enforcement agency has probable cause to believe
34 that a person has committed a crime, is committing a crime, or is
35 about to commit a crime, and exigent circumstances exist making it
36 unreasonable for the law enforcement agency to obtain a warrant
37 authorizing use of an unmanned aerial vehicle;

38 (3) the law enforcement agency has obtained the written consent of
39 an individual or property owner about which the law enforcement
40 agency seeks to gather information using the unmanned aerial vehicle;
41 or

42 (4) the unmanned aerial vehicle is being utilized by the Missing
43 Persons Unit established pursuant to section 2 of P.L.1983,
44 c.467 (C.52:17B-9.7) or other law enforcement agency for a search
45 and rescue mission including, but not limited to, locating a high risk
46 missing person or missing child as defined under section 1 of
47 P.L.2007, c.279 (C.52:17B-212), or following a notification that a

1 person is abducted or missing by an Amber Alert established under
2 section 3 of P.L.2002, c.129 (C.52:17B-194.3) or Silver Alert under
3 section 1 of P.L.2009, c.167 (C.52:17B-194.4); or by the State
4 Office of Emergency Management to survey or monitor the extent
5 of an emergency.

6 c. Whenever a law enforcement agency utilizes an unmanned
7 aerial vehicle in accordance with subsection b. of this section and
8 records a verbal or video communication that is unrelated to an
9 ongoing criminal investigation, the contents of that verbal or video
10 communication, and any information that is derived from that
11 communication, shall be discarded within 14 days.

12 d. Information or records of a verbal or video communication
13 derived from the use of an unmanned aerial vehicle shall be strictly
14 safeguarded and shall not be made available or disclosed to the
15 public or any third party. The provisions of this section shall not
16 apply to the disclosure of information or records of a verbal or
17 video communication derived from the use of an unmanned aerial
18 vehicle to any court or law enforcement agency in carrying out its
19 functions related to the ongoing criminal investigation.

20 e. Any evidence derived from the use of an unmanned aerial
21 vehicle in violation of this section shall not be used as evidence in a
22 criminal prosecution or disclosed in any other judicial proceeding,
23 administrative proceeding, arbitration proceeding, or legislative
24 proceeding, and may not be used to establish reasonable suspicion or
25 probable cause that an offense has been, is being, or is about to be
26 committed.

27

28 2. a. A forest firefighter service established under the
29 Department of Environmental Protection pursuant to R.S.13:9-1 et
30 seq. may utilize an unmanned aerial vehicle to survey or monitor
31 the extent of a forest fire.

32 b. Any fire department, paid or volunteer, in this State may
33 utilize an unmanned aerial vehicle to survey or monitor the extent
34 of a fire in situations when the unmanned aerial vehicle can assist
35 firefighters in obtaining visual and auditory information on the
36 damage caused by the fire to a building or other structure.

37 c. Whenever a forest firefighter service, or any fire department,
38 paid or volunteer, utilizes an unmanned aerial vehicle in accordance
39 with this section and records a verbal or video communication that
40 is unrelated to an arson investigation, the contents of that verbal or
41 video communication, and any information that is derived from that
42 communication, shall be discarded within 14 days.

43 d. Information or records of a verbal or video communication
44 derived from the use of an unmanned aerial vehicle shall be strictly
45 safeguarded and shall not be made available or disclosed to the
46 public or any third party.

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1 e. A forest firefighter service, or any other fire department,
2 paid or volunteer, that utilizes an unmanned aerial vehicle pursuant
3 to this section shall not be subject to the restrictions placed on law
4 enforcement agencies set forth under subsection b. of section 1 of
5 P.L. , c. (C.) (pending before the Legislature as this bill).
6

7 3. a. Any county emergency management coordinator or
8 municipal emergency management coordinator in this State may
9 utilize an unmanned aerial vehicle to survey or monitor the extent
10 of an emergency in situations when the unmanned aerial vehicle can
11 assist the coordinator in obtaining visual and auditory information
12 on the damage caused by the emergency to that county or
13 municipality.

14 b. Information or records of a verbal or video communication
15 derived from the use of an unmanned aerial vehicle shall be strictly
16 safeguarded and shall not be made available or disclosed to the
17 public or any third party.

18 c. A county emergency management coordinator or municipal
19 emergency management coordinator that utilizes an unmanned
20 aerial vehicle pursuant to this section shall not be subject to the
21 restrictions placed on law enforcement agencies set forth under
22 subsection b. of section 1 of P.L. , c. (C.) (pending
23 before the Legislature as this bill).
24

25 4. a. Each law enforcement agency, fire department or county
26 or local Office of Emergency Management that utilizes an
27 unmanned aerial vehicle shall keep, on location at the agency or
28 department, a record for each unmanned aerial vehicle listing the
29 following identifying information:

- 30 (1) maintenance records for each unmanned aerial vehicle;
31 (2) the records of the two most recent calendar years of fuel
32 purchases for each unmanned aerial vehicle; and
33 (3) any other documentation pertinent to the unmanned aerial
34 vehicle that may be otherwise required under rules or regulations
35 adopted pursuant to section 6 of P.L. , c. (C.) (pending
36 before the Legislature as this bill). The Attorney General shall have
37 the authority to inspect these records upon request.

38 b. Each law enforcement agency, fire department, or county or
39 local Office of Emergency Management that utilizes an unmanned
40 aerial vehicle shall annually inspect the unmanned aerial vehicle to
41 ensure that the vehicle is being properly maintained, is in good
42 working condition, and is safe to be used in the same proximity as
43 the general public. The person conducting the inspection shall have
44 qualifications, knowledge, and experience in the use and inspection
45 of unmanned aerial vehicles.

1 A report of the annual inspection shall be forwarded to the Office
2 of the Attorney General no later than January 1 of each year. The
3 report also shall include a statement documenting the number of
4 times that an unmanned aerial vehicle was used during the year, as
5 well as a statement of facts establishing the purpose for which the
6 unmanned aerial vehicle was used, and the character of the
7 information that the law enforcement agency or fire department
8 obtained from utilizing the unmanned aerial vehicle.

9
10 5. No person, including a law enforcement agency, fire
11 department or county or local Office of Emergency Management
12 permitted to utilize an unmanned aerial vehicle pursuant to this act
13 shall operate an unmanned aerial vehicle in this State that is
14 equipped with an anti-personnel device as defined in section 1 of
15 P.L. , c. (C.) (pending before the Legislature as this bill).
16 A person who violates this section shall be guilty of a crime of the
17 fourth degree.

18
19 6. The Attorney General, in conjunction with the
20 Superintendent of State Police, shall adopt rules and regulations in
21 accordance with the Administrative Procedure Act, P.L.1968,
22 c.410 (C.52:14B-1 et seq.), to effectuate the purposes of this act.

23
24 7. This act shall take effect immediately.

25
26

27 STATEMENT

28
29 This bill sets forth certain guidelines to be followed by law
30 enforcement agencies, emergency management offices, and fire
31 departments that use unmanned aerial vehicles, commonly referred
32 to as drones.

33 Under the provisions of the bill, a law enforcement agency is
34 prohibited from utilizing a drone unless that law enforcement
35 agency has obtained a warrant, or exigent circumstances exist
36 making it unreasonable to obtain a warrant. A law enforcement
37 agency is not required to obtain a warrant if a person or property
38 owner that the agency seeks information about provides written
39 consent permitting the use of a drone. The bill also authorizes the
40 use of a drone by the Missing Persons Unit in the Department of
41 Law and Public Safety or other law enforcement agency for search
42 and rescue missions including, but not limited to, locating a high
43 risk missing person or missing child or following a notification that
44 a person is abducted or missing by an Amber Alert or Silver Alert.

45 In addition, the bill provides that the forest fire service
46 established under the Department of Environmental Protection may

1 utilize a drone to survey or monitor the extent of a forest fire. All
2 fire departments operating in the State are also permitted to utilize a
3 drone to survey or monitor the extent of a fire in situations when the
4 unmanned aerial vehicle can assist firefighters in obtaining visual
5 and auditory information on the damage caused by the fire to a
6 building or other structure.

7 The bill permits the State Office of Emergency Management and
8 county and local Offices of Emergency Management to use drones
9 in the event of an emergency as defined in the bill, including but not
10 limited to a hurricane, flood, or terrorist act. The bill clarifies that
11 an office of emergency management or fire department that utilizes
12 a drone are not subject to the warrant requirements imposed on law
13 enforcement agencies.

14 The bill requires that any records of a verbal or video
15 communication derived from the use of a drone that are unrelated to
16 an ongoing criminal investigation must be discarded within 14 days.
17 In the case of drones being used by a fire department, verbal or
18 video communication that is unrelated to an arson investigation
19 must also be discarded within 14 days. In addition, any information
20 or records of a verbal or video communication derived from the use
21 of a drone must be strictly safeguarded from the public or any other
22 third party. Evidence illegally derived by a law enforcement agency
23 from the use of a drone is prohibited from being used as evidence in
24 a criminal prosecution or disclosed in any other judicial proceeding,
25 administrative proceeding, arbitration proceeding, or legislative
26 proceeding, and may not be used to establish reasonable suspicion or
27 probable cause that an offense has been, is being, or is about to be
28 committed.

29 The bill also requires each law enforcement agency, office of
30 emergency management, or fire department that utilizes a drone to
31 keep maintenance records for each unmanned aerial vehicle, a
32 record of the two most recent calendar years of fuel purchases for
33 each unmanned aerial vehicle, and any other documentation
34 pertinent to the unmanned aerial vehicle that may be otherwise
35 required by the Office of the Attorney General.

36 In addition, each law enforcement agency, office of emergency
37 management, or fire department that utilizes a drone is required to
38 annually inspect the drone to ensure that the system is being
39 properly maintained, is in good working condition and is safe to be
40 used in the same proximity as the general public. A report of the
41 annual inspection is to be forwarded to the Office of the Attorney
42 General no later than January 1 of each year. In addition, the report
43 is required to include a statement documenting the number of times
44 that an unmanned aerial vehicle was used during the year, as well as
45 a statement of facts establishing the purpose for which the
46 unmanned aerial vehicle was used, and the character of the

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1 information that the law enforcement agency or fire department
2 obtained from utilizing the unmanned aerial vehicle.
3 Finally, this bill prohibits drones from being equipped with an
4 “antipersonnel device.” Under the bill, antipersonnel device is
5 defined as a firearm or any prohibited weapon or device or any
6 other projectile designed to harm, incapacitate, or otherwise
7 negatively impact a human being. A person who operates a drone
8 equipped with an antipersonnel device is guilty of a crime of the
9 fourth degree under the provisions of the bill. A crime of the fourth
10 degree is punishable by up to 18 months imprisonment, a fine of up
11 to \$10,000, or both.