

# Senate Bill 853

Sponsored by Senator GEORGE

## 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 **as introduced**.

Prohibits public body from operating drone, acquiring information through operation of drone or disclosing information acquired through operation of drone, except as authorized by Act. Requires registration of drones if used by public body.

Modifies membership of State Aviation Board. Directs Director of Oregon Department of Aviation to study use of drones by public bodies.

Declares emergency, effective on passage.

## A BILL FOR AN ACT

1  
2 Relating to drones; creating new provisions; amending ORS 835.102 and 835.106; and declaring an  
3 emergency.

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

5 **SECTION 1. As used in sections 1 to 12 of this 2013 Act:**

6 (1) **"Drone" means an aircraft that is operated without direct human intervention from**  
7 **within or on the aircraft.**

8 (2) **"Public body" has the meaning given that term in ORS 174.109.**

9 (3) **"Warrant" means a warrant issued under ORS 133.525 to 133.703.**

10 **SECTION 2. (1) Except as otherwise provided in sections 1 to 12 of this 2013 Act, a public**  
11 **body may not operate a drone, acquire information through the operation of a drone or dis-**  
12 **close information acquired through the operation of a drone.**

13 (2) **Any image or other information that is acquired through the use of a drone by a**  
14 **public body in violation of sections 1 to 12 of this 2013 Act, or by any person or federal**  
15 **agency, and any evidence derived from that image or information:**

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

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

20 **SECTION 3. (1) A public body may operate a drone, acquire information through the op-**  
21 **eration of a drone and disclose information acquired through the operation of a drone if a**  
22 **warrant is issued.**

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

27 **SECTION 4. (1) Any operation of a drone by a public body must be limited to collection**  
28 **of information about the targeted individual or area for which the use is authorized, and**  
29 **must avoid collection of information on other persons or areas. Facial recognition and other**

**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.

1 biometric matching technology may not be used on data collected by a drone that does not  
2 relate to the targeted individual.

3 (2) Any image or other information acquired through the use of a drone by a public body  
4 that does not relate to the targeted individual or area, and any evidence derived from that  
5 image or information:

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

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

10 (3) Any image or other information acquired through the use of a drone by a public body  
11 must be destroyed within 30 days after the image or information is acquired unless the in-  
12 formation is needed as evidence in a criminal prosecution.

13 **SECTION 5.** A public body may operate a drone for the purpose of acquiring information  
14 about an individual, or about the individual's property, if the individual has given written  
15 consent to the use of a drone for those purposes.

16 **SECTION 6.** A public body may operate a drone, acquire information through the opera-  
17 tion of a drone and disclose information acquired through the operation of a drone for the  
18 purpose of assisting an individual in an emergency if:

19 (1) The public body reasonably believes that there is an imminent threat to the life or  
20 safety of the individual, and documents the factual basis for that belief; and

21 (2) Not more than 48 hours after the emergency operation begins, an official of the public  
22 body files a sworn statement with the circuit court that describes the nature of the emer-  
23 gency and the need for use of a drone.

24 **SECTION 7.** (1) A public body may operate a drone, acquire information through the op-  
25 eration of a drone and disclose information acquired through the operation of a drone for the  
26 purpose of reconstruction of a specific crime scene or similar physical assessment by a public  
27 body related to a specific criminal investigation.

28 (2) The period that a public body may operate a drone under this section may not exceed  
29 five days for the purpose of reconstruction of a specific crime scene or similar physical as-  
30 sessment by a public body related to a specific criminal investigation.

31 **SECTION 8.** (1) A public body may operate a drone, acquire information through the op-  
32 eration of a drone and disclose information acquired through the operation of a drone during  
33 a state of emergency that is declared by the Governor under ORS chapter 401 if:

34 (a) The drone is used only for the purposes of preserving public safety, protecting prop-  
35 erty or conducting surveillance for the assessment and evaluation of environmental or  
36 weather related damage, erosion or contamination; and

37 (b) The drone is operated only in the geographical area specified in a proclamation pur-  
38 suant to ORS 401.165 (5).

39 (2) Any evidence collected through use of a drone under this section:

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

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

44 **SECTION 9.** (1) Not more than 10 days after the termination of the period of authorized  
45 use specified in a warrant, the public body that applied for the warrant shall serve a sum-

1    **mary of the information acquired through the operation of a drone under the warrant on the**  
2    **individual named as the target in the application, and shall file a copy of the summary with**  
3    **the court that issued the warrant. The summary must include:**

4       **(a) A statement that the warrant was issued;**

5       **(b) The period for which use of a drone was authorized; and**

6       **(c) A statement as to whether any image of the targeted individual, or other information**  
7    **relating to the targeted individual, was recorded.**

8       **(2) The circuit court, upon the filing of a motion, may make available to the targeted**  
9    **individual all or part of the application made by the public body, the warrant issued by the**  
10   **court and the information acquired by use of a drone, if the judge determines that the re-**  
11   **lease of the information is in the interest of justice.**

12       **(3) A public body may request an order delaying delivery of the summary required under**  
13   **this section for a period not to exceed 10 days. The circuit court may grant the request if**  
14   **the court determines that providing the summary could result in:**

15       **(a) A risk to the life or physical safety of any person;**

16       **(b) Flight from prosecution;**

17       **(c) Destruction of evidence or tampering with evidence;**

18       **(d) Intimidation of potential witnesses; or**

19       **(e) Jeopardizing an investigation or unduly delaying a trial.**

20       **(4) The circuit court may grant more than one delay order under subsection (3) of this**  
21   **section. Upon expiration of all delay orders, the public body that applied for the warrant shall**  
22   **serve and file the summary required under subsection (1) of this section. In addition to the**  
23   **information specified in subsection (1) of this section, if the circuit court granted a delay**  
24   **order, the summary must include:**

25       **(a) The details of any delay order granted by the court; and**

26       **(b) The grounds for granting the order or orders.**

27       **SECTION 10. (1) A public body may not operate a drone in the airspace of this state**  
28   **without registering the drone with the Oregon Department of Aviation.**

29       **(2) The department may impose a civil penalty of up to \$10,000 against a public body that**  
30   **violates subsection (1) of this section.**

31       **(3) The department shall establish a registry of drones operated by public bodies and may**  
32   **charge a fee sufficient to reimburse the department for the maintenance of the registry.**

33       **(4) The department shall require the following information for registration of a drone:**

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

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

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

37       **(5) The department shall prepare and make available to the public an annual report on**  
38   **the use of drones by public bodies. The department shall provide a copy of the report to the**  
39   **State Aviation Board and to the Legislative Assembly in the manner provided by ORS 192.245.**

40       **SECTION 11. (1) Any public body that uses drones must adopt policies, after consulting**  
41   **with interested persons, for the use of drones that establish:**

42       **(a) Training requirements for operators;**

43       **(b) Criteria for when drones will be used;**

44       **(c) A description of the areas in which drones may be used; and**

45       **(d) A procedure for informing the public of the public body's policies on the use of drones.**

1       **(2) Use of drones by public bodies must comply with all Federal Aviation Administration**  
 2 **requirements and guidelines. The acquisition of drones by an agency of a local government**  
 3 **must be approved by the governing body of the local government.**

4       **(3) Each use of a drone by a public body must be fully documented. A report on each use**  
 5 **of a drone by a public body must be submitted to the Oregon Department of Aviation. The**  
 6 **department or the State Aviation Board may audit reports submitted by public bodies under**  
 7 **this section.**

8       **SECTION 12. (1) Sections 1 to 12 of this 2013 Act do not prevent the Armed Forces of the**  
 9 **United States, as defined in ORS 351.642, or any component of the Oregon National Guard**  
 10 **from using drones during a drill, training exercise or disaster response.**

11       **(2) Any evidence collected through the use of a drone under this section:**

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

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

16       **SECTION 13. ORS 835.102 is amended to read:**

17       835.102. (1) There is established the State Aviation Board consisting of seven members appointed  
 18 by the Governor, subject to confirmation by the Senate pursuant to ORS 171.562 and 171.565. The  
 19 Governor shall appoint members of the board in compliance with all of the following:

20       (a) Members shall be appointed with consideration of the different geographic regions of the  
 21 state, with one member being a resident of the area east of the Cascade Range.

22       (b) Not more than four members shall belong to the same political party. Party affiliation shall  
 23 be determined by the appropriate entry on official election registration cards.

24       **(2) One member of the board shall represent law enforcement agencies interested in the**  
 25 **use of drones for law enforcement purposes. One member of the board shall represent**  
 26 **members of the defense bar, or organizations interested in limiting the use of drones for law**  
 27 **enforcement purposes.** The [*board membership*] **remaining members** shall represent diverse avi-  
 28 ation interests from both the private and public sectors.

29       (3) The term of office of each member is four years. Before the expiration of the term of a  
 30 member, the Governor shall appoint a successor whose term begins on July 1 next following. A  
 31 member is eligible for reappointment. In case of a vacancy for any cause, the Governor shall appoint  
 32 a person to fill the office for the unexpired term.

33       (4) A member of the board is entitled to compensation and expenses as provided by ORS 292.495.

34       **SECTION 14. The amendments to ORS 835.102 by section 13 of this 2013 Act do not apply**  
 35 **to any member of the State Aviation Board serving on the effective date of this 2013 Act**  
 36 **during the term being served by the member on the effective date of this 2013 Act. When the**  
 37 **term of any member currently serving on the board ends, or a position on the board becomes**  
 38 **vacant for any reason, the Governor shall appoint persons with the qualifications established**  
 39 **by the amendments to ORS 835.102 by section 13 of this 2013 Act until two of the members**  
 40 **meet the qualifications established by those amendments.**

41       **SECTION 15. ORS 835.106 is amended to read:**

42       835.106. (1) The Governor shall appoint the Director of the Oregon Department of Aviation,  
 43 subject to confirmation by the Senate pursuant to ORS 171.562 and 171.565, who holds office at the  
 44 pleasure of the Governor.

45       (2) Subject to ORS 835.017 and the policy direction by the State Aviation Board, the director

1 shall:

2 (a) Be the administrative head of the department;

3 (b) Have power, within applicable budgetary limitations, and in accordance with ORS chapter  
4 240, to hire, assign, reassign and coordinate personnel of the department and prescribe their duties  
5 and fix their compensation, subject to the State Personnel Relations Law;

6 (c) Administer the laws of the state concerning aviation; *[and]*

7 **(d) Study the use of drones by public bodies, as defined in ORS 174.109, and make rec-**  
8 **ommendations to the Legislative Assembly on policies and procedures relating to the use of**  
9 **drones by public bodies; and**

10 *[(d)]* (e) Intervene, as authorized by the board, pursuant to the rules of practice and procedure,  
11 in the proceedings of state and federal agencies that may substantially affect the interests of the  
12 consumers and providers of aviation services within Oregon.

13 (3) Subject to ORS 835.017, in addition to duties otherwise required by law, the director shall  
14 prescribe regulations for the government of the department, the conduct of its employees, the as-  
15 signment and performance of its business and the custody, use and preservation of its records, pa-  
16 pers and property in a manner consistent with applicable law.

17 (4) The director may delegate to any of the employees of the department the exercise or dis-  
18 charge in the director's name of any duty, function or power of whatever character, vested in or  
19 imposed by law upon the director, including duties, functions or powers delegated to the director  
20 by the board. The official act of any person acting in the director's name and by the authority of  
21 the director shall be considered to be an official act of the director.

22 (5) The director shall have authority to require a fidelity bond of any officer or employee of the  
23 department who has charge of, handles or has access to any state money or property, and who is  
24 not otherwise required by law to give a bond. The amounts of the bonds shall be fixed by the di-  
25 rector, except as otherwise provided by law, and the sureties shall be approved by the director. The  
26 department shall pay the premiums on the bonds.

27 (6) The director shall prepare and submit to the board on or about December 31 of each year  
28 an annual report for the 12 months ending the prior June 30. The annual report shall set forth all  
29 that the department has done during the year. The report shall contain a statement of the parts of  
30 the state aviation system that were constructed, reconstructed or improved during the period, to-  
31 gether with a statement showing in a general way the status of the state aviation system.

32 **SECTION 16. This 2013 Act being necessary for the immediate preservation of the public**  
33 **peace, health and safety, an emergency is declared to exist, and this 2013 Act takes effect**  
34 **on its passage.**

35