

A-Engrossed
House Bill 2354

Ordered by the House April 15
Including House Amendments dated April 15

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Judiciary)

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.

Changes defined term "drone" to "unmanned [*aerial*] **aircraft** system."

A BILL FOR AN ACT

1
2 Relating to unmanned aerial systems; amending ORS 837.300, 837.310, 837.320, 837.330, 837.335,
3 837.340, 837.345, 837.360, 837.365, 837.375, 837.380, 837.385 and 837.995.

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

5 **SECTION 1.** ORS 837.300 is amended to read:

6 837.300. As used in ORS 837.300 to 837.390 and 837.995 [*and section 11, chapter 686, Oregon Laws*
7 *2013*]:

8 (1) [*Drone*] "**Unmanned aircraft system**" means an unmanned flying machine, **commonly**
9 **known as a drone**. [*Drone*] "**Unmanned aircraft system**" does not include a model aircraft as
10 defined in section 336 of the FAA Modernization and Reform Act of 2012 (P.L. 112-95) as in effect
11 on July 29, 2013.

12 (2) "Law enforcement agency" means an agency that employs police officers, as defined in ORS
13 133.525, or that prosecutes offenses.

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

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

16 **SECTION 2.** ORS 837.310 is amended to read:

17 837.310. (1) Except as otherwise provided in ORS 837.310 to 837.345, a law enforcement agency
18 may not operate [*a drone*] **an unmanned aircraft system**, acquire information through the opera-
19 tion of [*a drone*] **an unmanned aircraft system** or disclose information acquired through the op-
20 eration of [*a drone*] **an unmanned aircraft system**.

21 (2) Any image or other information that is acquired through the use of [*a drone*] **an unmanned**
22 **aircraft system** by a law enforcement agency in violation of ORS 837.310 to 837.345, and any evi-
23 dence derived from that image or information:

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

26 (b) May not be used to establish reasonable suspicion or probable cause to believe that an of-
27 fense has been committed.

28 **SECTION 3.** ORS 837.320 is amended to read:

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.

1 837.320. (1) A law enforcement agency may operate [*a drone*] **an unmanned aircraft system**,
2 acquire information through the operation of [*a drone*] **an unmanned aircraft system**, or disclose
3 information acquired through the operation of [*a drone*] **an unmanned aircraft system**, if:

4 (a) A warrant is issued authorizing use of [*a drone*] **an unmanned aircraft system**; or

5 (b) The law enforcement agency has probable cause to believe that a person has committed a
6 crime, is committing a crime or is about to commit a crime, and exigent circumstances exist that
7 make it unreasonable for the law enforcement agency to obtain a warrant authorizing use of [*a*
8 *drone*] **an unmanned aircraft system**.

9 (2) A warrant authorizing the use of [*a drone*] **an unmanned aircraft system** must specify the
10 period for which operation of the [*drone*] **unmanned aircraft system** is authorized. In no event
11 may a warrant provide for the operation of [*a drone*] **an unmanned aircraft system** for a period
12 of more than 30 days. Upon motion and good cause shown, a court may renew a warrant after the
13 expiration of the 30-day period.

14 **SECTION 4.** ORS 837.330 is amended to read:

15 837.330. A law enforcement agency may operate [*a drone*] **an unmanned aircraft system** for
16 the purpose of acquiring information about an individual, or about the individual's property, if the
17 individual has given written consent to the use of [*a drone*] **an unmanned aircraft system** for
18 those purposes.

19 **SECTION 5.** ORS 837.335 is amended to read:

20 837.335. (1) A law enforcement agency may operate [*a drone*] **an unmanned aircraft system**,
21 acquire information through the operation of [*a drone*] **an unmanned aircraft system**, or disclose
22 information acquired through the operation of [*a drone*] **an unmanned aircraft system**, for the
23 purpose of search and rescue activities, as defined in ORS 404.200.

24 (2) A law enforcement agency may operate [*a drone*] **an unmanned aircraft system**, acquire
25 information through the operation of [*a drone*] **an unmanned aircraft system**, or disclose infor-
26 mation acquired through the operation of [*a drone*] **an unmanned aircraft system**, for the purpose
27 of assisting an individual in an emergency if:

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

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

33 (3) A law enforcement agency may operate [*a drone*] **an unmanned aircraft system**, acquire
34 information through the operation of [*a drone*] **an unmanned aircraft system**, or disclose infor-
35 mation acquired through the operation of [*a drone*] **an unmanned aircraft system**, during a state
36 of emergency that is declared by the Governor under ORS chapter 401 if:

37 (a) The [*drone*] **unmanned aircraft system** is used only for the purposes of preserving public
38 safety, protecting property or conducting surveillance for the assessment and evaluation of envi-
39 ronmental or weather related damage, erosion or contamination; and

40 (b) The [*drone*] **unmanned aircraft system** is operated only in the geographical area specified
41 in a proclamation pursuant to ORS 401.165 (5).

42 **SECTION 6.** ORS 837.340 is amended to read:

43 837.340. (1) A law enforcement agency may operate [*a drone*] **an unmanned aircraft system**,
44 acquire information through the operation of [*a drone*] **an unmanned aircraft system**, or disclose
45 information acquired through the operation of [*a drone*] **an unmanned aircraft system**, for the

1 purpose of reconstruction of a specific crime scene, or similar physical assessment, related to a
2 specific criminal investigation.

3 (2) The period that a law enforcement agency may operate [*a drone*] **an unmanned aircraft**
4 **system** under this section may not exceed five days for the purpose of reconstruction of a specific
5 crime scene, or similar physical assessment, related to a specific criminal investigation.

6 **SECTION 7.** ORS 837.345 is amended to read:

7 837.345. (1) A law enforcement agency may operate [*a drone*] **an unmanned aircraft system** for
8 the purpose of training in:

9 (a) The use of [*drones*] **unmanned aircraft systems**; and

10 (b) The acquisition of information through the operation of [*a drone*] **an unmanned aircraft**
11 **system**.

12 (2) Any image or other information that is acquired through the use of [*a drone*] **an unmanned**
13 **aircraft system** by a law enforcement agency under this section, and any evidence derived from
14 that image or information:

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

17 (b) May not be used to establish reasonable suspicion or probable cause to believe that an of-
18 fense has been committed.

19 **SECTION 8.** ORS 837.360 is amended to read:

20 837.360. (1) A public body may not operate [*a drone*] **an unmanned aircraft system** in the
21 airspace over this state without registering the [*drone*] **unmanned aircraft system** with the Oregon
22 Department of Aviation.

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

25 (3) Evidence obtained by a public body through the use of [*a drone*] **an unmanned aircraft**
26 **system** in violation of subsection (1) of this section is not admissible in any judicial or administra-
27 tive proceeding and may not be used to establish reasonable suspicion or probable cause to believe
28 that an offense has been committed.

29 (4) The Oregon Department of Aviation shall establish a registry of [*drones*] **unmanned aircraft**
30 **systems** operated by public bodies and may charge a fee sufficient to reimburse the department for
31 the maintenance of the registry.

32 (5) The Oregon Department of Aviation shall require the following information for registration
33 of [*a drone*] **an unmanned aircraft system**:

34 (a) The name of the public body that owns or operates the [*drone*] **unmanned aircraft**
35 **system**.

36 (b) The name and contact information of the individuals who operate the [*drone*] **unmanned**
37 **aircraft system**.

38 (c) Identifying information for the [*drone*] **unmanned aircraft system** as required by the de-
39 partment by rule.

40 (6) A public body that registers one or more [*drones*] **unmanned aircraft systems** under this
41 section shall provide an annual report to the Oregon Department of Aviation that summarizes:

42 (a) The frequency of use of the [*drones*] **unmanned aircraft systems** by the public body during
43 the preceding calendar year; and

44 (b) The purposes for which the [*drones*] **unmanned aircraft systems** have been used by the
45 public body during the preceding calendar year.

1 (7) The State Aviation Board may adopt all rules necessary for the registration of [*drones*] **un-**
2 **manned aircraft systems** in Oregon that are consistent with federal laws and regulations.

3 **SECTION 9.** ORS 837.365 is amended to read:

4 837.365. A public body may not operate [*a drone*] **an unmanned aircraft system** that is capable
5 of firing a bullet or other projectile, directing a laser or otherwise being used as a weapon.

6 **SECTION 10.** ORS 837.375 is amended to read:

7 837.375. In addition to any other remedies allowed by law, a person who intentionally interferes
8 with, or gains unauthorized control over, [*a drone*] **an unmanned aircraft system** licensed by the
9 Federal Aviation Administration, or operated by the Armed Forces of the United States as defined
10 in ORS 351.642, an agency of the United States or a federal, state or local law enforcement agency,
11 is liable to the owner of the [*drone*] **unmanned aircraft system** in an amount of not less than
12 \$5,000. The court shall award reasonable attorney fees to a prevailing plaintiff in an action under
13 this section.

14 **SECTION 11.** ORS 837.380 is amended to read:

15 837.380. (1) Except as provided in subsection (2) of this section, a person who owns or lawfully
16 occupies real property in this state may bring an action against any person or public body that op-
17 erates [*a drone*] **an unmanned aircraft system** that is flown [*at a height of less than 400 feet*] over
18 the property if:

19 (a) The operator of the [*drone*] **unmanned aircraft system** has flown the [*drone*] **unmanned**
20 **aircraft system** over the property [*at a height of less than 400 feet*] on at least one previous occa-
21 sion; and

22 (b) The person notified the owner or operator of the [*drone*] **unmanned aircraft system** that
23 the person did not want the [*drone*] **unmanned aircraft system** flown over the property [*at a height*
24 *of less than 400 feet*].

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

26 (a) The [*drone*] **unmanned aircraft system** is lawfully in the flight path for landing at an air-
27 port, airfield or runway; and

28 (b) The [*drone*] **unmanned aircraft system** is in the process of taking off or landing.

29 (3) A prevailing plaintiff may recover treble damages for any injury to the person or the prop-
30 erty by reason of a trespass by [*a drone*] **an unmanned aircraft system** as described in this sec-
31 tion, and may be awarded injunctive relief in the action.

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

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

38 **SECTION 12.** ORS 837.385 is amended to read:

39 837.385. Except as expressly authorized by state statute, the authority to regulate the ownership
40 or operation of [*drones*] **unmanned aircraft systems** is vested solely in the Legislative Assembly.
41 Except as expressly authorized by state statute, a local government, as defined ORS 174.116, may
42 not enact an ordinance or resolution that regulates the ownership or operation of [*drones*] **un-**
43 **manned aircraft systems** or otherwise engage in the regulation of the ownership or operation of
44 [*drones*] **unmanned aircraft systems**.

45 **SECTION 13.** ORS 837.995 is amended to read:

1 837.995. (1) A person commits a Class A felony if the person possesses or controls [*a drone*] **an**
2 **unmanned aircraft system** and intentionally causes, or attempts to cause, the [*drone*] **unmanned**
3 **aircraft system** to:

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

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

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

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

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