

House Bill 2354

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 **as introduced**.

Changes defined term "drone" to "unmanned aerial system."

A BILL FOR AN ACT

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

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

SECTION 1. ORS 837.300 is amended to read:

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

(1) [*Drone*] "**Unmanned aerial system**" means an unmanned flying machine. [*Drone*] "**Unmanned aerial system**" 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 July 29, 2013.

(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.

SECTION 2. ORS 837.310 is amended to read:

837.310. (1) Except as otherwise provided in ORS 837.310 to 837.345, a law enforcement agency may not operate [*a drone*] **an unmanned aerial system**, acquire information through the operation of [*a drone*] **an unmanned aerial system** or disclose information acquired through the operation of [*a drone*] **an unmanned aerial system**.

(2) Any image or other information that is acquired through the use of [*a drone*] **an unmanned aerial system** by a law enforcement agency in violation of ORS 837.310 to 837.345, 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. ORS 837.320 is amended to read:

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

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

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

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

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

10 837.330. A law enforcement agency may operate [*a drone*] **an unmanned aerial system** for the
 11 purpose of acquiring information about an individual, or about the individual's property, if the indi-
 12 vidual has given written consent to the use of [*a drone*] **an unmanned aerial system** for those
 13 purposes.

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

15 837.335. (1) A law enforcement agency may operate [*a drone*] **an unmanned aerial system**, ac-
 16 quire information through the operation of [*a drone*] **an unmanned aerial system**, or disclose in-
 17 formation acquired through the operation of [*a drone*] **an unmanned aerial system**, for the purpose
 18 of search and rescue activities, as defined in ORS 404.200.

19 (2) A law enforcement agency may operate [*a drone*] **an unmanned aerial system**, acquire in-
 20 formation through the operation of [*a drone*] **an unmanned aerial system**, or disclose information
 21 acquired through the operation of [*a drone*] **an unmanned aerial system**, for the purpose of as-
 22 sisting an individual in an emergency if:

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

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

28 (3) A law enforcement agency may operate [*a drone*] **an unmanned aerial system**, acquire in-
 29 formation through the operation of [*a drone*] **an unmanned aerial system**, or disclose information
 30 acquired through the operation of [*a drone*] **an unmanned aerial system**, during a state of emer-
 31 gency that is declared by the Governor under ORS chapter 401 if:

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

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

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

38 837.340. (1) A law enforcement agency may operate [*a drone*] **an unmanned aerial system**, ac-
 39 quire information through the operation of [*a drone*] **an unmanned aerial system**, or disclose in-
 40 formation acquired through the operation of [*a drone*] **an unmanned aerial system**, for the purpose
 41 of reconstruction of a specific crime scene, or similar physical assessment, related to a specific
 42 criminal investigation.

43 (2) The period that a law enforcement agency may operate [*a drone*] **an unmanned aerial sys-**
 44 **tem** under this section may not exceed five days for the purpose of reconstruction of a specific
 45 crime scene, or similar physical assessment, related to a specific criminal investigation.

SECTION 7. ORS 837.345 is amended to read:

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

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

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

(2) Any image or other information that is acquired through the use of [*a drone*] **an unmanned aerial system** by a law enforcement agency under this section, 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 8. ORS 837.360 is amended to read:

837.360. (1) A public body may not operate [*a drone*] **an unmanned aerial system** in the airspace over this state without registering the [*drone*] **unmanned aerial system** 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*] **an unmanned aerial system** 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*] **unmanned aerial systems** 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*] **an unmanned aerial system**:

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

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

(c) Identifying information for the [*drone*] **unmanned aerial system** as required by the department by rule.

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

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

(b) The purposes for which the [*drones*] **unmanned aerial systems** 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*] **unmanned aerial systems** in Oregon that are consistent with federal laws and regulations.

SECTION 9. ORS 837.365 is amended to read:

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

SECTION 10. ORS 837.375 is amended to read:

1 837.375. In addition to any other remedies allowed by law, a person who intentionally interferes
 2 with, or gains unauthorized control over, [a drone] **an unmanned aerial system** licensed by the
 3 Federal Aviation Administration, or operated by the Armed Forces of the United States as defined
 4 in ORS 351.642, an agency of the United States or a federal, state or local law enforcement agency,
 5 is liable to the owner of the [drone] **unmanned aerial system** in an amount of not less than \$5,000.
 6 The court shall award reasonable attorney fees to a prevailing plaintiff in an action under this
 7 section.

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

9 837.380. (1) Except as provided in subsection (2) of this section, a person who owns or lawfully
 10 occupies real property in this state may bring an action against any person or public body that op-
 11 erates [a drone] **an unmanned aerial system** that is flown at a height of less than 400 feet over
 12 the property if:

13 (a) The operator of the [drone] **unmanned aerial system** has flown the [drone] **unmanned ae-**
 14 **rial system** over the property at a height of less than 400 feet on at least one previous occasion;
 15 and

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

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

20 (a) The [drone] **unmanned aerial system** is lawfully in the flight path for landing at an airport,
 21 airfield or runway; and

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

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

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

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

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

33 837.385. Except as expressly authorized by state statute, the authority to regulate the ownership
 34 or operation of [drones] **unmanned aerial systems** is vested solely in the Legislative Assembly.
 35 Except as expressly authorized by state statute, a local government, as defined ORS 174.116, may
 36 not enact an ordinance or resolution that regulates the ownership or operation of [drones] **un-**
 37 **manned aerial systems** or otherwise engage in the regulation of the ownership or operation of
 38 [drones] **unmanned aerial systems**.

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

40 837.995. (1) A person commits a Class A felony if the person possesses or controls [a drone] **an**
 41 **unmanned aerial system** and intentionally causes, or attempts to cause, the [drone] **unmanned**
 42 **aerial system** to:

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

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

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

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

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