

Department of Legislative Services
Maryland General Assembly
2015 Session

FISCAL AND POLICY NOTE

House Bill 620
Judiciary

(Delegate A. Miller, *et al.*)

Crimes - Unmanned Aircraft Systems - Unauthorized Surveillance

This bill prohibits a person from using an “unmanned aircraft system” (UAS) to intentionally conduct surveillance of, gather evidence or collect information about, or photographically or electronically record specifically targeted individuals or private property. The prohibition does not apply to the use of a UAS (1) in accordance with a valid search warrant; (2) in connection with an emergency response for safety, search and rescue, or a controlled dangerous substance investigation; (3) with the written consent of the individual being observed; or (4) by an owner of a facility located on property owned by another person under an easement, permit, license, or other right of occupancy using a UAS to inspect the facility.

Violators are guilty of a misdemeanor, punishable by imprisonment for up to one year and/or a maximum fine of \$2,500.

Fiscal Summary

State Effect: Minimal increase in general fund revenues and expenditures due to the bill’s penalty provision.

Local Effect: Minimal increase in local revenues and expenditures due to the bill’s penalty provision.

Small Business Effect: None.

Analysis

Bill Summary: The bill defines a “UAS” as a powered aerial vehicle that (1) does not carry a human operator; (2) uses aerodynamic forces to provide vehicle lift; (3) can fly autonomously or be piloted remotely; (4) is expendable or recoverable; and (5) carries equipment that can be used for surveillance purposes. “UAS” does not include (1) a model flying airplane or rocket, including one that is radio-controlled or otherwise remotely controlled and used purely for sport or recreational purposes or (2) a UAS used in mapping or resource management.

Current Law/Background: There are no statutory provisions specifically dedicated to drones.

UAS, (also known as unmanned aerial vehicles (UAVs) or “drones”) are aircraft controlled remotely from another location without a human pilot on board. Once exclusively thought of in the context of overseas military operations, UAS/drones are becoming an increasingly popular tool with domestic law enforcement. Civilian uses of drones can range from backyard/playground recreational use to meteorology and professional photography from higher altitudes. In December 2013, the popular online retailer Amazon.com announced plans to implement “Amazon Prime Air,” a 30-minute delivery system using UAS. The proliferation and rapid advancement of UAS technology has generated discussion regarding Fourth Amendment protections and privacy concerns.

In 2012, the U.S. Congress passed the FAA Modernization and Reform Act, which directed the Federal Aviation Administration (FAA) to safely integrate UAS into national airspace by September 2015.

To assist with integration, FAA designated six UAS test sites in 2013. The sites are located in Alaska, Nevada, New York, North Dakota, Texas, and Virginia. The University System of Maryland (USM) was 1 of 25 applicants from 24 states to submit a proposal to become one of the FAA test sites. Though USM was not selected, USM, Virginia Polytechnic and State University, and Rutgers University did enter into a memorandum of understanding to collaborate on UAS research prior to the FAA’s decision. Because of the tri-state collaboration agreement (known as the Mid-Atlantic Aviation Partnership), personnel and facilities in Maryland and New Jersey are assisting Virginia in its UAS research. In August 2014, USM’s UAS testing operation opened at a test site near the Patuxent River Naval Air Station in St. Mary’s County.

Under current law, UASs are banned for commercial use until FAA issues regulations in 2015. However, there are two ways to obtain FAA approval to operate a UAS: (1) obtain an experimental airworthiness certificate to conduct private-sector research and development, crew training, and market surveys; or (2) obtain a Certificate of Waiver or

Authorization (COA). A COA allows public entities to fly UASs in civil airspace, including law enforcement, border patrol, search and rescue, and other governmental operational missions.

On February 23, 2015, FAA published a proposed framework of regulations to integrate small UASs (under 55 pounds) into the national aviation system. The proposed regulations apply to commercial flights of UAS. Under the proposed regulations, small UASs may only fly during daylight hours at a maximum altitude of 500 feet and a maximum speed of 100 miles per hour. Small UASs must be operated by certified unmanned aircraft operators, and must remain within the visual line of sight of the operator or the visual observer at all times. Small UASs are prohibited from flying in specified types of airspace and must yield the right-of-way to other aircraft (manned or unmanned). The proposed rule also includes discussion of an additional, more flexible regulatory framework for “micro” UASs (under 4.4 pounds), and FAA has asked for public feedback to determine whether this classification should be included as part of a final rule. The 60-day public comment period on the proposed regulations ends on April 24, 2015.

In March 2015, FAA authorized the Michigan State Police to fly drones anywhere in the state for law enforcement purposes, making that organization the first law enforcement agency in the nation to receive permission to fly drones statewide.

State Revenues: General fund revenues increase minimally as a result of the bill’s monetary penalty provision from cases heard in the District Court.

State Expenditures: General fund expenditures increase minimally as a result of the bill’s incarceration penalty due to more people being committed to State correctional facilities for convictions in Baltimore City. The number of people convicted of this proposed crime is expected to be minimal.

Generally, persons serving a sentence of one year or less in a jurisdiction other than Baltimore City are sentenced to a local detention facility. The Baltimore City Detention Center, a State-operated facility, is used primarily for pretrial detentions.

Local Revenues: Revenues increase minimally as a result of the bill’s monetary penalty provision from cases heard in the circuit courts.

Local Expenditures: Expenditures increase as a result of the bill’s incarceration penalty. Counties pay the full cost of incarceration for people in their facilities for the first 12 months of the sentence. Per diem operating costs of local detention facilities have ranged from approximately \$60 to \$160 per inmate in recent years.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Maryland State Commission on Criminal Sentencing Policy, Judiciary (Administrative Office of the Courts), Office of the Public Defender, State's Attorneys' Association, *Detroit Free Press*, *The Baltimore Sun*, Federal Aviation Administration, *Federal Register*, computerworld.com, pcworld.com, CNN.com, Department of Legislative Services

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