

SB 238 -1, -3, -4 STAFF MEASURE SUMMARY

Senate Committee On Judiciary

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Meeting Dates: 3/31, 4/7

WHAT THE MEASURE DOES:

The measure is a placeholder bill that requires the Department of Public Safety Standards and Training to study issues relating to law enforcement officers.

FISCAL: May have fiscal impact, but no statement yet issued.

REVENUE: No revenue impact.

ISSUES DISCUSSED:

- Increasing personnel efficiency
- Remote assessment of scenes for safety and situational awareness
- Confusion regarding purpose of current affidavit filing requirement post-use
- How to identify whether a drone is law enforcement UAS
- Federal and state constitutional limitations on some aerial surveillance

EFFECT OF AMENDMENT:

-1 The amendment allows a law enforcement agency or officer to acquire information or to disclose information acquired through the operation of an unmanned aircraft system in connection with lawful police activity, with some exceptions.

Detailed Summary

- Permits law enforcement to operate an unmanned aircraft system (UAS) in connection with lawful police activity, including but not limited to:
 - Responding to any call for service.
 - Responding to a public safety emergency that could result in injury to persons or property.
 - Conducting search and rescue operations, or training on UAS operation.
 - Obtaining information about a property where the owner has consented.
- Prohibits law enforcement UAS operation in the following circumstances:
 - Operation over commercial property, if the owner has not consented and posted conspicuous notice of possible law enforcement UAS operation over the property.
 - Operation of UAS for purposes of traffic enforcement, unless actively pursuing a fleeing suspect.
- Requires that UAS cameras be stowed, or positioned and used only for airspace deconfliction, if the law enforcement operation of a UAS is not in connection with police activity.
- Removes the law enforcement exemption from the prohibition on UAS use over private property to intentionally, knowingly, or recklessly harass or annoy the occupant or owner.
- Repeals portions of ORS 837.320, and the entirety of ORS 837.330, ORS 837.335, and ORS 837.340, including the following requirements:
 - Written authorization from a consenting property owner.
 - Issuance of a warrant in all but exigent circumstances with probable cause, or for search and rescue or training.
 - Documentation of the factual basis for the belief of an imminent threat to an individual's life or safety, and the filing of a sworn statement within 48 hours.
 - Limitation of five days on the use of UAS for law enforcement reconstruction or assessment of an accident or crime scene.

-3 The amendment incorporates the -1 amendments with revisions for clarification and narrowed applicability.

Detailed Summary

- Makes the list of lawful activities exclusive.
- Adds three additional lawful police activities:
 - Executing a warrant
 - Operating a UAS as authorized by a warrant issued by a court
 - Responding to exigent circumstances making it unreasonable to obtain a warrant authorizing UAS use, if probable cause exists to believe a person has committed, is committing, or is about to commit a crime.
- Narrows the provision on operation over commercial properties to restrict surveillance activities over the property without the owner's consent and posting of the required notice.

-4 The amendment incorporates the -3 amendment and clarifies that a law enforcement agency may not use an unmanned aircraft system to collect or maintain information in a manner prohibited by ORS 181A.250.

BACKGROUND:

In 2013, House Bill 2710 established that law enforcement may only use UAS with a warrant or with probable cause and exigent circumstances, or for search and rescue efforts, training, or crime scene reconstruction. The measure also prohibited public bodies from operating UAS that are capable of firing a bullet or other projectile. In 2016, House Bill 4066 required public bodies to establish and make publicly available policies and procedures for the use, storage, access, sharing, and retention of data collected through use of UAS.