

SB 238 A STAFF MEASURE SUMMARY

House Committee On Judiciary

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Meeting Dates: 5/7, 5/8, 5/19

WHAT THE MEASURE DOES:

The measure allows a law enforcement agency or officer to acquire and disclose information acquired through the operation of an unmanned aircraft system in connection with specific lawful police activities, with certain exceptions.

Detailed Summary

- Permits law enforcement to operate an unmanned aircraft system (UAS) in connection with lawful police activity, 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;
 - Conducting training on UAS operation;
 - Obtaining information about a property with the owner's consent;
 - Executing a warrant;
 - Operating a UAS as authorized by a warrant issued by a court; or
 - 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.
- Prohibits law enforcement UAS operation in the following circumstances:
 - Surveillance activities 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.
 - Collecting or maintaining information in a manner prohibited by ORS 181A.250.
- 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;
 - For law enforcement use of UAS in search and rescue activities, the requirement that law enforcement file a sworn statement within 48 hours and document the factual basis for the belief of an imminent threat to an individual's life or safety; and
 - Limitation of five days on the use of UAS for law enforcement reconstruction or assessment of an accident or crime scene

FISCAL: Has minimal fiscal impact

REVENUE: No revenue impact

SENATE VOTE: Ayes, 23; Nays, 3

ISSUES DISCUSSED:

This summary has not been adopted or officially endorsed by action of the committee.

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- Individual's expectations of privacy
- Change in warrantless uses
- Whether and how the public can identify a law enforcement UAS in the air
- Technology use in surveillance of protests
- Fire services are not bound by restrictions on law enforcement use
- Data retention and privacy

EFFECT OF AMENDMENT:

No amendment.

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 projectiles. 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. UAS are commonly called drones.

ORS 181A.250 prohibits a law enforcement agency from collecting or maintaining information about the political, religious or social views, associations or activities of any individual, group, association, organization, corporation, business or partnership, unless the information directly relates to an investigation of criminal activities, and there are reasonable grounds to suspect the subject of the information is or may be involved in criminal conduct.