

UNMANNED AIRCRAFT SYSTEMS ACT

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Senate Bill 992 as enacted

Public Act 436 of 2016

Sponsor: Sen. Peter MacGregor

House Committee: Communications and Technology

Senate Committee: Transportation

Complete to 2-5-18

Analysis available at
<http://www.legislature.mi.gov>

SUMMARY:

Senate Bill 992 creates a new act, the “Unmanned Aircraft Systems Act,” to provide a regulatory framework for the use of unmanned aircraft (i.e., drones) in the state.

For purposes of the act:

Political subdivision means a county, city, village, township, or other political subdivision, public corporation, authority, or district in this state.

Unmanned aircraft means an aircraft flown by a remote pilot via a ground control system, or autonomously through use of an on-board computer, communication links, and any additional equipment necessary for the unmanned aircraft to operate safely.

Unmanned aircraft system means an unmanned aircraft and all of the associated support equipment, control station, data links, telemetry, communications, navigation equipment, and other equipment necessary to operate the unmanned aircraft.

Allowed use, prohibited use, and penalties

The act allows a person to operate an unmanned aircraft system in this state for recreational purposes if the unmanned aircraft system is operated in a manner consistent with federal law for the operation of a model aircraft.¹

The act prohibits an individual from knowingly and intentionally operating an unmanned aircraft system in any of the following ways:

- In a manner that interferes with the official duties of a police officer, a firefighter, a paramedic, or search and rescue personnel.
- In order to subject another individual to harassment, as defined in Section 411h or 411i of the Michigan Penal Code (MCL 750.411h and 750.411i).
- Within a distance that would violate a restraining order or other judicial order if the operator were personally within that distance.
- In order to violate Section 539j of the Michigan Penal Code (MCL 750.539j)² or otherwise capture photographs, video, or audio recordings of an individual in a manner that invades the individual’s reasonable expectation of privacy.

¹ Public Law 112-95, Section 336: <https://www.gpo.gov/fdsys/pkg/PLAW-112publ95/pdf/PLAW-112publ95.pdf>

See also: https://www.faa.gov/uas/media/model_aircraft_spec_rule.pdf

² Section 539j of the Penal Code prohibits surveilling, photographing, or otherwise recording an individual clad only in undergarments, the unclad genitalia or buttocks of an individual, or the unclad breasts of a female individual under circumstances in which the individual would have a reasonable expectation of privacy. It also prohibits distributing a recording or image a person knows or should know was obtained in violation of the foregoing.

- If the operator is required to register under the Sex Offenders Registration Act (MCL 28.721 et seq.), to knowingly and intentionally follow, contact, or capture images of another individual when the operator's sentence in a criminal case prohibits him or her from doing so.

A person who violates any of these prohibitions is guilty of a misdemeanor punishable by up to 90 days in prison and/or a fine of up to \$500. A conviction does not affect the ability to investigate, arrest, prosecute, or convict an individual for any other violation of state law.

Local regulation, NREPA precedence

The bill prohibits a political subdivision from regulating the ownership or operation of unmanned aircraft, except as expressly authorized by statute. However, a political subdivision may promulgate rules, regulations, and ordinances for the use of unmanned aircraft systems by the political subdivision itself within its own boundaries.

Sections 40111c and 40112 of the Natural Resources and Environmental Protection Act (MCL 324.40111c and 324.40112), which ban hunting and interfering with hunting while using an unmanned vehicle or device, would control in the case of a conflict with this act.

Unmanned Aircraft Systems Task Force

The bill creates the Unmanned Aircraft Systems Task Force, which is responsible for developing statewide policy recommendations on the operation, use, and regulation of unmanned aircraft systems.

The task force is charged with considering commercial and private uses of unmanned aircraft systems, landowner and privacy rights, as well as general rules and regulations for safe operation of unmanned aircraft systems, and preparing comprehensive recommendations for the safe and lawful operation of unmanned aircraft systems in this state. Recommendations regarding the protection of public and private property interests and the use of unmanned aircraft systems over public property must be included.

The task force must submit a report with recommendations to the governor and the standing committees in the House and Senate that mainly deal with transportation issues within three months after its first meeting. The task force is then required to meet at least once every 18 months to consider any new developments or problems that may require further consideration and recommendations by the task force.

A majority of the members of the task force constitutes a quorum for the transaction of business at a task force meeting, and a majority of the members present and serving are required for official action of the task force. Members of the task force serve without compensation. The state transportation department is responsible for providing administrative support to the task force.

Meetings of the Unmanned Aircraft Systems Task Force where business is conducted have to comply with the Open Meetings Act, and any writings prepared, used, or held by the task force in the performance of an official function are subject to the Freedom of Information Act. Meetings of the task force must be held in the central part of the state.

The task force is made up of one individual appointed by the governor from, or to represent, each of the following agencies or interest groups:

1. The state transportation department (MDOT), nominated by the director of MDOT.
2. The division of MDOT that performs bridge inspections and road work, nominated by the director of MDOT.
3. The Department of State Police, nominated by the director of the department.
4. The Department of Natural Resources, nominated by the director of the department.
5. The Department of Agriculture and Rural Development, nominated by the director of the department.
6. The Department of Licensing and Regulatory Affairs, nominated by the director of the department.
7. The Department of Corrections, nominated by the director of the department.
8. An unmanned aircraft systems technical commercial representative.
9. An unmanned aircraft systems manufacturing industry representative.
10. An individual licensed by the Federal Aviation Administration to operate unmanned aircraft weighing less than 55 pounds.
11. An individual who represents airports in Michigan, nominated by the director of MDOT.
12. The Michigan Municipal League, nominated by the director of the league.
13. A statewide agricultural association, nominated by the president of the association.
14. A statewide retail association, nominated by the president of the association.
15. A statewide manufacturing trade association, nominated by the president or chief executive officer of the association.
16. A statewide property and casualty insurance association, nominated by the president or chief executive officer of the association.
17. A statewide association that represents real estate brokers licensed in this state, nominated by the president of the association.
18. A statewide surveying association, nominated by the president of the association.
19. A law enforcement official from a municipality, nominated by a statewide police chiefs association.
20. A statewide freight railroad association, nominated by the president of the association.
21. A statewide broadcasters association, nominated by the president of the association.
22. An individual who represents persons that operate key facilities, as defined in section 552c of the Michigan Penal Code (MCL 750.552c).³
23. An individual who represents county sheriffs, nominated by the president of the Michigan Sheriffs' Association.
24. An individual knowledgeable about the operation of public utilities who represents public utilities in the Upper Peninsula, nominated by the chair of the Public Service Commission.
25. An individual knowledgeable about the operation of public utilities who represents public utilities in the Lower Peninsula, nominated by the chair of the Public Service Commission.
26. An individual who represents the Mackinac Bridge Authority, nominated by the authority.
27. An individual who represents the city of Mackinac Island.

³ Key facilities include such things as power plants, chemical factories, refineries, fuel terminals, paper mills, ports and other transport terminals, hazardous waste facilities, water facilities, and cell towers.

The member from MDOT is the chair of the task force and serves as liaison to the governor and the standing committees in the House and Senate that mainly deal with transportation issues.

Members' terms last 4 years or until a successor is appointed, whichever is later, except that many of the initial members appointed will serve for shorter terms so as to stagger the occurrence of regular task force vacancies.

If a vacancy occurs, the governor must make an appointment for the unexpired term in the same manner as the original appointment. The governor can remove a member of the task force for incompetence, dereliction of duty, malfeasance, misfeasance, or nonfeasance in office, or any other good cause.

FISCAL IMPACT:

To the extent that the bill results in a greater number of misdemeanor convictions, it could increase costs for local units of government. New misdemeanor convictions could increase costs related to law enforcement, court systems, county jails, and/or local misdemeanor probation supervision. The costs of local incarceration in a county jail and local misdemeanor probation supervision vary by jurisdiction. The fiscal impact on court systems would depend on how the provisions of the bill affected caseloads and related administrative costs. Increases in penal fine revenues would benefit local libraries, which are the constitutionally designated recipients of such revenues.

As noted above, Senate Bill 992 would create the Unmanned Aircraft Systems Task Force. The task force would be responsible for developing statewide policy recommendations on the operation, use, and regulation of unmanned aircraft systems in Michigan. The task force would be required to submit a report with recommendations to the governor and the standing committees in the House and Senate that mainly deal with transportation issues within three months after the first meeting of the task force.

The bill directs the Governor to appoint members to the task force, including individuals representing various state agencies. The agencies represented on the task force include MDOT; the division of MDOT that performs bridge inspections and road work; the Departments of State Police, Natural Resources, Agriculture and Rural Development, Licensing and Regulatory Affairs, and Corrections; and the Mackinac Bridge Authority. MDOT would be responsible for providing administrative support to the unmanned aircraft systems task force.

There would be some cost to MDOT associated with providing administrative support and in assembling and publishing the required report. There would also be some staff time costs for the state agencies participating in the task force. We do not have an estimate of those costs and assume they would be relatively small and funded from existing appropriated resources.

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.