

CREATE UNMANNED AERIAL SYSTEMS ACT

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Senate Bill 992 (proposed H-1 substitute)

Sponsor: Sen. Peter MacGregor

House Committee: Communications and Technology

Senate Committee: Transportation

Complete to 11-28-16

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

SUMMARY:

Senate Bill 992 would create a new act, the "Unmanned Aircraft Systems Act." This act would create a regulatory framework for the use of unmanned aircraft in the state. The bill would take effect 90 days after being enacted into law.

Definitions

SB 992 would define the following terms:

"Person" would mean "an individual, partnership, corporation, association, governmental entity, or other legal entity."

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

"Unmanned aircraft" would mean "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 that is necessary for the unmanned aircraft to operate safely."

"Unmanned aircraft system" would mean 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."

Allowable use

The bill would allow 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.

Prohibited use and penalties

An individual would be prohibited from knowingly and intentionally doing any of the following:

- Operating an unmanned aircraft system in a manner that interferes with the official duties of any of the following:
 - A police officer.
 - A firefighter.
 - A paramedic.
 - Search and rescue personnel.

- Operating an unmanned aircraft system to subject an individual to harassment, as defined in Section 411h or 411i of the Michigan Penal Code (MCL 750.411h and 750.411i).
- Operating an unmanned aircraft system within a distance that, if the person were to do so personally rather than through remote operation of an unmanned aircraft, would be a violation of a restraining order or other judicial order.
- Operating an unmanned aircraft system to violate Section 539j* of the Michigan Penal Code, or to otherwise capture photographs, video, or audio recordings of an individual in a manner that would invade the individual's reasonable expectation of privacy.
- Operating an unmanned aircraft system to knowingly and intentionally follow, contact, or capture images of another individual, if the individual's sentence in a criminal case would prohibit the individual from following, contacting, or capturing the image of the other individual, if the operator is an individual who is required to register as a sex offender under the Sex Offenders Registration Act (PA 295 of 1994).

*[Section 539j] of the Penal Code states that a person shall not do any of the following:

- Surveil another individual who is clad only in undergarments, the unclad genitalia or buttocks of another individual, or the unclad breasts of a female individual under circumstances in which the individual would have a reasonable expectation of privacy.
- Photograph, or otherwise capture or record, the visual image of the undergarments worn by another individual, the unclad genitalia or buttocks of another individual, or the unclad breasts of a female individual under circumstances in which the individual would have a reasonable expectation of privacy.
- Distribute, disseminate, or transmit for access by any other person a recording, photograph, or visual image the person knows or has reason to know was obtained in violation of this section.]

A person guilty of violating any of these prohibitions would be guilty of a misdemeanor punishable by 90 days in prison and/or a fine of not more than \$500.

Local regulation of unmanned aircraft

The bill would prohibit a political subdivision from enacting or enforcing an ordinance or resolution that regulates the ownership or operation of unmanned aircraft or otherwise engage in the regulation of the ownership or operation of unmanned aircraft, except as expressly authorized by statute. However, the act would allow a political subdivision to promulgate rules, regulations and ordinances for the use of unmanned aircraft systems by the political subdivision itself within its own boundaries.

If this act conflicts with Section 40111c or 40112 of the Natural Resources and Environmental Protection Act (MCL 324.40111c and 324.40112), those sections, which ban both hunting and interfering with hunting while using an unmanned vehicle or device, would control. The act also contains language stating that it would not affect federal preemption of state law.

Unmanned Aircraft Systems Task Force

SB 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 have to consider 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 prepare comprehensive recommendations for the safe and lawful operation of unmanned aircraft systems in this state. The recommendations must include, but not be limited to, recommendations regarding the protection of public and private property interests and the use of unmanned aircraft systems over public property.

The unmanned aircraft systems 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 task force would be required to meet at least once every 18 months following the submission of this report to consider any new developments or problems that may require further consideration and recommendations by the task force [NOTE: This is a conflict with language found previously within Section 31 of the act, which states that the terms of task force members end after submission of the initial report.]

A majority of the members of the unmanned aircraft systems task force would constitute a quorum for the transaction of business at a meeting of the task force. A majority of the members present and serving would be required for official action of the task force. Members of the task force would serve without compensation. The state transportation department would be responsible for providing administrative support to the unmanned aircraft systems task force.

Meetings of the unmanned aircraft systems task force where business was conducted would have to comply with the Open Meetings Act, and any writings prepared, owned, used, in the possession of, or retained by the unmanned aircraft systems task force in the performance of an official function is subject to the Freedom of Information Act. Meetings of the task force must be held in the central part of the state.

Within 60 days after the effective date of the bill, nominations for the task force must be submitted to the governor. The governor must then make appointments within 30 days after the close of nominations. Members' terms will last until the report of comprehensive recommendations is submitted.

The task force would be made up of one individual from each of the following:

- The state transportation department (MDOT), nominated by the MDOT director.
- The division of MDOT that performs bridge inspections and road work, nominated by the director of MDOT.
- The Department of State Police (MSP), nominated by the MSP director.
- The Department of Natural Resources (DNR) nominated by the DNR director.
- The Department of Agriculture and Rural Development (MDARD), nominated by the director of MDARD.

- The Department of Licensing and Regulatory Affairs (LARA) nominated by the LARA director.
- The Department of Corrections, nominated by the director of the department.
- An unmanned aircraft systems technical commercial representative.
- An unmanned aircraft systems manufacturing industry representative.
- An individual licensed by the Federal Aviation Administration to operate unmanned aircraft that weigh less than 55 pounds.
- An individual who represents airports in Michigan, nominated by the director of MDOT.
- An individual from the Michigan Municipal League, nominated by the director of the league.
- A state-wide agricultural association, nominated by the president of the association.
- A statewide retail association, nominated by the president of the association.
- A statewide manufacturing trade association, nominated by the president or chief executive officer of the association.
- A statewide property and casualty insurance association, nominated by the president or chief executive officer of the association.
- A statewide association that represents real estate brokers licensed in this state, nominated by the president of the association.
- A statewide surveying association, nominated by the president of the association.
- A law enforcement official from a municipality, nominated by a statewide police chiefs association.
- A statewide freight railroad association, nominated by the president of the association.
- A statewide broadcasters association, nominated by the president of the association.
- A member who represents persons that operate key facilities, as that term is defined in section 552c of the Michigan Penal Code (MCL 750.552c).
- An individual who represents county sheriffs, nominated by the president of the Michigan Sheriffs' Association.
- A member who is knowledgeable about the operation of public utilities who represents public utilities in the Upper Peninsula, nominated by the chairman of the Public Service Commission.
- An individual knowledgeable about the operation of public utilities who represents public utilities in the Lower Peninsula, nominated by the chairman of the Public Service Commission.
- An individual who represents the Mackinac Bridge Authority, nominated by the authority.

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

FISCAL IMPACT:

To the extent that the bill results in a greater number of misdemeanor convictions, it could increase costs on 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

misdeemeanor 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. That agencies represented on the task force include: MDOT, the division of MDOT that performs bridge inspections and road work, MSP, DNR, MDARD, LARA, the Department of 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.