JUDICIARY

Reproduced and distributed under the direction of the Secretary of the Senate.

STATE OF MAINE
SENATE
126TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT “ ” to S.P. 72, L.D. 236, Bill, “An Act To Protect the Privacy of Citizens from Domestic Unmanned Aerial Vehicle Use”

Amend the bill by striking out the title and substituting the following:

'An Act To Regulate Domestic Unmanned Aerial Vehicle Use'

Amend the bill by striking out everything after the enacting clause and before the summary and inserting the following:

'Sec. 1. 25 MRSA Pt. 12 is enacted to read:

PART 12
UNMANNED AERIAL VEHICLES
CHAPTER 551
REGULATION OF UNMANNED AERIAL VEHICLES

§4501. Regulation of unmanned aerial vehicles

1. Findings. The Legislature finds that evolving technology regarding unmanned aerial vehicles presents a real benefit for security, for search and rescue efforts and for disaster prevention and relief, as well as a tool for the investigation of serious crimes, but the technology also presents a potential threat to the privacy of citizens of this State if used by law enforcement in the conduct of criminal investigations without appropriate guidelines and supervision.

2. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Law enforcement agency" has the same meaning as in section 3701, subsection 1.
B. "Unmanned aerial vehicle" means an aircraft operated without a physical human presence within or on the aircraft that, in the manner in which the aircraft is used or the manner in which it is equipped, is capable of performing audio or visual surveillance.

3. Acquisition of unmanned aerial vehicles. The acquisition of an unmanned aerial vehicle by a law enforcement agency must be approved by the governing body of the governmental unit overseeing the law enforcement agency seeking to make such an acquisition or, in the case of a state agency, by the commissioner of that agency.

4. Law enforcement agency operation of unmanned aerial vehicles. A law enforcement agency's operation of an unmanned aerial vehicle must fully comply with all Federal Aviation Administration requirements and guidelines, including the acquisition of a certificate of authorization or waiver from the Federal Aviation Administration.

5. Prohibited and authorized uses. Use of an unmanned aerial vehicle by a law enforcement agency is governed by this subsection.

A. Before July 1, 2014, a law enforcement agency may not use an unmanned aerial vehicle.

B. On or after July 1, 2014, a law enforcement agency may not use an unmanned aerial vehicle before adopting standards in accordance with subsection 6.

C. A law enforcement agency may not use or facilitate the use of a weaponized unmanned aerial vehicle.

D. A law enforcement agency may not use an unmanned aerial vehicle to conduct surveillance on private citizens peacefully exercising their constitutional right of free speech and assembly.

E. Notwithstanding paragraphs A and B, a law enforcement agency may use an unmanned aerial vehicle for the purpose of an emergency search or rescue operation when the law enforcement agency determines that use of an unmanned aerial vehicle is necessary to alleviate an immediate danger to any person, or for training exercises related to such uses. The determination that an emergency exists must be approved by the chief administrative officer of the law enforcement agency, or the designee of the chief administrative officer, or the Governor.

F. Notwithstanding paragraphs A and B, a law enforcement agency may use an unmanned aerial vehicle for purposes other than the investigation of crime, including, but not limited to, damage assessment, traffic accident assessment, flood stage assessment and wildfire assessment.

6. Policy standards. The board, in consultation with the Office of the Attorney General, shall establish standards for written policies or protocols for use of unmanned aerial vehicles by law enforcement agencies. The standards must include at a minimum:

A. Training and certification requirements for a person operating an unmanned aerial vehicle;

B. Requirements for prior authorization for the use of an unmanned aerial vehicle by the chief administrative officer of the law enforcement agency seeking to use such a vehicle;
C. Approval by the Attorney General or chief prosecuting attorney for the appropriate jurisdiction for the deployment of an unmanned aerial vehicle for criminal investigation purposes;

D. Restrictions on the use of night vision technology, high-powered zoom lenses, video analytics, facial recognition technology, thermal imaging and other such enhancement and analytic technology;

E. Recommended minimum altitudes and speeds at which an unmanned aerial vehicle may be flown in order to minimize the invasion of privacy of 3rd parties who are not under investigation;

F. Procedures to minimize intrusions into the private space of 3rd parties;

G. Procedures to minimize the inadvertent audio or visual recording of private spaces of 3rd parties;

H. Procedures for destroying any unnecessary audio or visual recordings without further duplication or dissemination;

I. Methods for tracking and recording the flight of each unmanned aerial vehicle;

J. Methods to minimize the number of unmanned aerial vehicles deployed at any one time in any one area or at any one event;

K. Procedures to avoid hazards to persons and property on land and in the air due to the operation of unmanned aerial vehicles;

L. Requirements for documenting the flight, location, purpose and result of the deployment of an unmanned aerial vehicle;

M. Requirements for regular statistical reporting of all uses of unmanned aerial vehicles, including the purposes, the results and the duration of such uses, to the appropriate governmental bodies; and

N. Accountability of a law enforcement agency for any mistake in deployment or misuse of an unmanned aerial vehicle, including sanctions as provided in section 2803-C or section 2806, as applicable.

Sec. 2. Standards, data collection, report; legislation. In developing minimum standards for written policies or protocols for use of unmanned aerial vehicles by law enforcement agencies as required in the Maine Revised Statutes, Title 25, section 2803-D, subsection 6, the Board of Trustees of the Maine Criminal Justice Academy shall take into account individuals' reasonable expectation of privacy under the Fourth Amendment of the United States Constitution. The board of trustees shall review the options for collecting and reporting information on the use of unmanned aerial vehicles. The board of trustees shall report to the Joint Standing Committee on Judiciary by December 31, 2013 the following:

1. Minimum standards for written policies or protocols for use of unmanned aerial vehicles by law enforcement agencies;

2. Recommendations to ensure that individuals' reasonable expectation of privacy is protected; and
3. Recommendations for the appropriate collection and reporting of information on
the use of unmanned aerial vehicles.

The Joint Standing Committee on Judiciary may report out legislation to the Second
Regular Session of the 126th Legislature upon receipt of the report.'

SUMMARY

This amendment is the majority report of the Joint Standing Committee on Judiciary.
It replaces the bill.

This amendment includes a legislative findings subsection to recognize the potential
benefits and risks of the evolving technology of unmanned aerial vehicles.

This amendment defines "unmanned aerial vehicle" to include the capability of
performing audio and visual surveillance. It requires the governing body of the law
enforcement agency to approve of the acquisition of an unmanned aerial vehicle by the
law enforcement agency. It requires that a law enforcement agency must comply with
Federal Aviation Administration requirements when operating an unmanned aerial
vehicle.

This amendment creates a moratorium on the use of unmanned aerial vehicles by law
enforcement agencies until July 1, 2014. On or after July 1, 2014, a law enforcement
agency may operate an unmanned aerial vehicle only after it has adopted the standards
established by the Board of Trustees of the Maine Criminal Justice Academy. There is an
exception for the use of an unmanned aerial vehicle in emergency search or rescue
operations when the Governor or the chief administrative officer of a law enforcement
agency or the chief administrative officer's designee determines that the use is necessary
to alleviate immediate danger to any person. Unmanned aerial vehicles can be used as
part of training exercises to prepare for such emergencies. In addition, a law enforcement
agency may use unmanned aerial vehicles for purposes other than the investigation of
crimes, such as damage assessment, traffic accident assessment, flood stage assessment
and wildfire assessment.

This amendment prohibits a law enforcement agency from using a weaponized
unmanned aerial vehicle.

This amendment requires the Board of Trustees of the Maine Criminal Justice
Academy to establish minimum standards for written policies and protocols for use of
unmanned aerial vehicles. In developing the standards, the board of trustees is directed to
take into account individuals' reasonable expectation of privacy under the Fourth
Amendment of the United States Constitution. The board of trustees shall also review the
options for collecting and reporting information on the use of unmanned aerial vehicles.
The board of trustees is required to report to the Joint Standing Committee on Judiciary
by December 31, 2013 concerning the minimum standards for written policies or
protocols for use of unmanned aerial vehicles by law enforcement agencies,
recommendations to ensure that individuals' reasonable expectation of privacy is
protected and recommendations for the appropriate collection and reporting of
information on the use of unmanned aerial vehicles.
The Joint Standing Committee on Judiciary is authorized to report out legislation to the Second Regular Session of the 126th Legislature upon receipt of the report.

FISCAL NOTE REQUIRED

(See attached)