

[First Reprint]

ASSEMBLY, No. 1039

STATE OF NEW JERSEY
216th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2014 SESSION

Sponsored by:

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District 14 (Mercer and Middlesex)

Assemblyman VINCENT PRIETO

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District 20 (Union)

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District 32 (Bergen and Hudson)

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District 14 (Mercer and Middlesex)

Co-Sponsored by:

Assemblymen O'Scanlon, McKeon and Assemblywoman Jasey

SYNOPSIS

Sets forth certain standards to be followed by law enforcement agencies and fire departments when utilizing drones.

CURRENT VERSION OF TEXT

As reported by the Assembly Homeland Security and State Preparedness Committee on October 27, 2014, with amendments.

(Sponsorship Updated As Of: 1/12/2016)

1 AN ACT concerning the use of unmanned aerial vehicles and
2 supplementing Title 2A of the New Jersey Statutes.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. a. As used in this act:

8 "Anti-personnel device" means a firearm or any prohibited
9 weapon or device defined under N.J.S.2C:39-3 or any other
10 projectile designed to harm, incapacitate, or otherwise negatively
11 impact a human being;

12 "Unmanned aerial vehicle" means an aerial vehicle that is owned
13 or operated by any branch of the Armed Forces of the United States
14 or any law enforcement agency, or agent or employee thereof, that
15 uses aerodynamic forces to propel the vehicle and does not carry a
16 human operator, and is capable of flying autonomously or being
17 piloted remotely and conducting surveillance as defined by this
18 section;

19 "Emergency" means any flood, hurricane, storm, tornado, high
20 water, wind-driven water, tidal wave, drought, fire, explosion, civil
21 disorder, act of terrorism, or other catastrophe which is or threatens
22 to be of sufficient severity and magnitude to substantially endanger
23 the health, safety^{1,1} and property of the citizens of this State; and

24 "Surveillance" means the act of monitoring, observing,
25 photographing, listening to, or making a recording of a person or
26 group of persons or their movements, activities and
27 communications.

28 b. No law enforcement agency shall utilize an unmanned aerial
29 vehicle to conduct surveillance or to gather any evidence or engage
30 in any other law enforcement activity within this State unless:

31 (1) pursuant to the authority of a judicially authorized search
32 warrant issued by a court of competent jurisdiction;

33 (2) the law enforcement agency has probable cause to believe
34 that a person has committed a crime ¹**[,] or**¹ is committing a crime
35 ¹**[, or is about to commit a crime]**¹, and exigent circumstances exist
36 making it unreasonable for the law enforcement agency to obtain a
37 warrant authorizing ¹**the**¹ use of an unmanned aerial vehicle;

38 (3) the law enforcement agency has obtained the written consent of
39 an individual or property owner about which the law enforcement
40 agency seeks to gather information using the unmanned aerial vehicle;
41 or

42 (4) the unmanned aerial vehicle is being utilized by the Missing
43 Persons Unit established pursuant to section 2 of P.L.1983, c.467
44 (C.52:17B-9.7) or other law enforcement agency for a search and

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly AHS committee amendments adopted October 27, 2014.

1 rescue mission including, but not limited to, locating a high risk
2 missing person or missing child as defined under section 1 of
3 P.L.2007, c.279 (C.52:17B-212), or following a notification that a
4 person is abducted or missing by an Amber Alert established under
5 section 3 of P.L.2002, c.129 (C.52:17B-194.3) or Silver Alert under
6 section 1 of P.L.2009, c.167 (C.52:17B-194.4); or by the State
7 Office of Emergency Management to survey or monitor the extent
8 of an emergency.

9 c. Whenever a law enforcement agency utilizes an unmanned
10 aerial vehicle in accordance with subsection b. of this section and
11 records a verbal or video communication that is unrelated to an
12 ongoing criminal investigation, the contents of that verbal or video
13 communication, and any information that is derived from that
14 communication, shall be discarded within 14 days.

15 d. Information or records of a verbal or video communication
16 derived from the use of an unmanned aerial vehicle shall be strictly
17 safeguarded and shall not be made available or disclosed to the
18 public or any third party. The provisions of this section shall not
19 apply to the disclosure of information or records of a verbal or
20 video communication derived from the use of an unmanned aerial
21 vehicle to any court or law enforcement agency in carrying out its
22 functions related to the ongoing criminal investigation.

23 e. Any evidence derived from the use of an unmanned aerial
24 vehicle in violation of this section shall not be used as evidence in a
25 criminal prosecution or disclosed in any other judicial proceeding,
26 administrative proceeding, arbitration proceeding, or legislative
27 proceeding, and may not be used to establish reasonable suspicion or
28 probable cause that an offense has been, is being, or is about to be
29 committed.

30
31 2. a. A forest fire service established under the Department of
32 Environmental Protection pursuant to R.S.13:9-1 et seq. may utilize
33 an unmanned aerial vehicle to survey or monitor the extent of a
34 forest fire.

35 b. Any fire department, paid or volunteer, in this State may
36 utilize an unmanned aerial vehicle to survey or monitor the extent
37 of a fire in situations when the unmanned aerial vehicle can assist
38 firefighters in obtaining visual and auditory information on the
39 damage caused by the fire to a building or other structure.

40 c. Whenever a forest fire service, or any fire department, paid
41 or volunteer, utilizes an unmanned aerial vehicle in accordance with
42 this section and records a verbal or video communication that is
43 unrelated to an arson investigation, the contents of that verbal or
44 video communication, and any information that is derived from that
45 communication, shall be discarded within 14 days.

46 d. Information or records of a verbal or video communication
47 derived from the use of an unmanned aerial vehicle shall be strictly

1 safeguarded and shall not be made available or disclosed to the
2 public or any third party.

3 e. A forest fire service, or any other fire department, paid or
4 volunteer, that utilizes an unmanned aerial vehicle pursuant to this
5 section shall not be subject to the restrictions placed on law
6 enforcement agencies set forth under subsection b. of section 1 of
7 P.L. , c. (C.) (pending before the Legislature as this bill).

8

9 3. a. Any county emergency management coordinator or
10 municipal emergency management coordinator in this State may
11 utilize an unmanned aerial vehicle to survey or monitor the extent
12 of an emergency in situations when the unmanned aerial vehicle can
13 assist the coordinator in obtaining visual and auditory information
14 on the damage caused by the emergency to that county or
15 municipality.

16 b. Information or records of a verbal or video communication
17 derived from the use of an unmanned aerial vehicle shall be strictly
18 safeguarded and shall not be made available or disclosed to the
19 public or any third party.

20 c. A county emergency management coordinator or municipal
21 emergency management coordinator that utilizes an unmanned
22 aerial vehicle pursuant to this section shall not be subject to the
23 restrictions placed on law enforcement agencies set forth under
24 subsection b. of section 1 of P.L. , c. (C.) (pending before
25 the Legislature as this bill).

26

27 4. a. Each law enforcement agency, fire department or county
28 or local Office of Emergency Management that utilizes an
29 unmanned aerial vehicle shall keep, on location at the agency or
30 department, a record for each unmanned aerial vehicle listing the
31 following identifying information:

32 (1) maintenance records for each unmanned aerial vehicle;

33 (2) the records of the two most recent calendar years of fuel
34 purchases for each unmanned aerial vehicle; and

35 (3) any other documentation pertinent to the unmanned aerial
36 vehicle that may be otherwise required under rules or regulations
37 adopted pursuant to section 6 of P.L. , c. (C.) (pending
38 before the Legislature as this bill). The Attorney General shall have
39 the authority to inspect these records upon request.

40 b. Each law enforcement agency, fire department, or county or
41 local Office of Emergency Management that utilizes an unmanned
42 aerial vehicle shall annually inspect the unmanned aerial vehicle to
43 ensure that the vehicle is being properly maintained, is in good
44 working condition, and is safe to be used in the same proximity as
45 the general public. The person conducting the inspection shall have
46 qualifications, knowledge, and experience in the use and inspection
47 of unmanned aerial vehicles. A report of the annual inspection shall

1 be forwarded to the Office of the Attorney General no later than
2 January 1 of each year.

3 ¹c. ¹The ¹annual¹ report ¹required pursuant to subsection b. of
4 this section¹ also shall include a statement documenting ¹【the
5 number of times that】 each use of¹ an unmanned aerial vehicle
6 ¹【was used during the year, as well as】 ; the municipality and
7 county in which the unmanned aerial vehicle was used;¹ a statement
8 of facts establishing the purpose for which the unmanned aerial
9 vehicle was used¹【,】¹; ¹and the character of the information that the
10 law enforcement agency or fire department obtained from
11 ¹【utilizing】 each use of¹ the unmanned aerial vehicle.

12 ¹d. The Office of the Attorney General shall annually publish on
13 its website and make copies available, upon request, of the
14 information required to be submitted to the Office of the Attorney
15 General pursuant to subsection c. of this section.¹

16

17 5. No person, including a law enforcement agency, fire
18 department or county or local Office of Emergency Management
19 permitted to utilize an unmanned aerial vehicle pursuant to this act
20 shall operate an unmanned aerial vehicle in this State that is
21 equipped with an anti-personnel device as defined in section 1 of
22 P.L. , c. (C.) (pending before the Legislature as this bill).
23 A person who violates this section shall be guilty of a crime of the
24 fourth degree.

25

26 6. The Attorney General, in conjunction with the
27 Superintendent of State Police, shall adopt rules and regulations in
28 accordance with the Administrative Procedure Act, P.L.1968, c.410
29 (C.52:14B-1 et seq.), to effectuate the purposes of this act.

30

31 7. This act shall take effect immediately.