

HB0296S01 compared with HB0296

~~{deleted text}~~ shows text that was in HB0296 but was deleted in HB0296S01.

inserted text shows text that was not in HB0296 but was inserted into HB0296S01.

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Representative Scott D. Sandall proposes the following substitute bill:

GOVERNMENT USE OF UNMANNED AERIAL VEHICLES - AMENDMENTS

2015 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Scott D. Sandall

Senate Sponsor: _____

LONG TITLE

General Description:

This bill amends the provisions of Title 63G, Chapter 18, Government Use of Unmanned Aerial Vehicles Act.

Highlighted Provisions:

This bill:

- ▶ allows a law enforcement agency to use an unmanned aircraft system to collect certain types of data;
- ▶ institutes testing requirements for a law enforcement agency's use of an unmanned aircraft system;
- ▶ amends the reporting requirements for a law enforcement agency that operates an

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unmanned aircraft system; and

- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

63G-18-101, as enacted by Laws of Utah 2014, Chapter 399

63G-18-102, as enacted by Laws of Utah 2014, Chapter 399

63G-18-103, as enacted by Laws of Utah 2014, Chapter 399

63G-18-104, as enacted by Laws of Utah 2014, Chapter 399

63G-18-105, as enacted by Laws of Utah 2014, Chapter 399

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **63G-18-101** is amended to read:

CHAPTER 18. GOVERNMENT USE OF UNMANNED AIRCRAFT SYSTEMS ACT

63G-18-101. Title.

This chapter is known as the "Government Use of Unmanned [~~Aerial Vehicles~~] Aircraft Systems Act."

Section 2. Section **63G-18-102** is amended to read:

63G-18-102. Definitions.

As used in this chapter:

(1) "Law enforcement agency" means an entity of the state or an entity of a political subdivision of the state, including an entity of a state institution of higher education, that exists primarily to prevent, detect, or prosecute crime and enforce criminal statutes or ordinances.

(2) "Nongovernment actor" means a person that is not:

(a) an agency, department, division, or other entity within state government;

(b) a person ~~is~~ employed by or ~~is~~ otherwise acting in an official capacity on behalf of the state;

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(c) a political subdivision of the state; or
(d) a person ~~{}~~ employed by or ~~{}~~ otherwise acting in an official capacity on behalf of a political subdivision of the state.

(3) "Target" means a person upon whom, or a structure or area upon which, a person:
(a) has intentionally collected or attempted to collect information through the operation of an unmanned ~~[aerial vehicle]~~ aircraft system; or

(b) plans to collect or attempt to collect information through the operation of an unmanned ~~[aerial vehicle]~~ aircraft system.

(4) (a) "Unmanned ~~[aerial vehicle]~~ aircraft system" means an aircraft that:
(i) is capable of sustaining flight; and
(ii) operates with no possible direct human intervention from on or within the aircraft.
(b) "Unmanned ~~[aerial vehicle]~~ aircraft system" does not include an unmanned aircraft that is flown:

- (i) within visual line of sight of the individual operating the aircraft; and
- (ii) strictly for hobby or recreational purposes.

Section 3. Section **63G-18-103** is amended to read:

63G-18-103. Unmanned aircraft system use requirements -- Exceptions --

Testing.

(1) A law enforcement agency may not obtain, receive, or use data acquired through an unmanned ~~[aerial vehicle]~~ aircraft system unless the data is obtained:

- (a) pursuant to a search warrant;
- (b) in accordance with judicially recognized exceptions to warrant requirements; ~~[or]~~
- (c) subject to Subsection (2), from a person who is a nongovernment actor~~[-];~~
~~{~~ (d) for a purpose other than law enforcement, if the data is not intended for use in a trial, hearing, or other adjudicative proceeding of the state or a political subdivision of the state; or

~~{~~ (~~f~~e)d) subject to judicially recognized search warrant requirements, to survey a traffic crash scene~~[-]; or~~

(e) subject to Subsection (4), for training purposes or to locate a lost or missing person.

(2) A nongovernment actor may only disclose data acquired through an unmanned ~~[aerial vehicle]~~ aircraft system to a law enforcement agency if:

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- (a) the data appears to pertain to the commission of a crime; or
- (b) the nongovernment actor believes, in good faith, that:
 - (i) the data pertains to an imminent or ongoing emergency involving danger of death or serious bodily injury to an individual; and
 - (ii) disclosing the data would assist in remedying the emergency.

(3) Before a law enforcement agency deploys a particular model of an unmanned aircraft system that the law enforcement agency has never operated, the law enforcement agency shall operate the unmanned aircraft system for at least 20 hours of testing.

(4) (a) A law enforcement agency that obtains, receives, or uses data acquired under Subsection (1)(e) shall destroy the data as soon as reasonably possible after the law enforcement agency obtains, receives, or uses the data.

(b) Data obtained, received, or used under Subsection (1)(e) may not be used in any trial, hearing, or other adjudicative proceeding of the state or a political subdivision of the state.

Section 4. Section **63G-18-104** is amended to read:

63G-18-104. Data retention.

- (1) Except as provided in this section, a law enforcement agency:
 - (a) may not use, copy, or disclose data collected by an unmanned [~~aerial vehicle~~] aircraft system on a person, structure, or area that is not a target; and
 - (b) shall ensure that data described in Subsection (1)(a) is destroyed as soon as reasonably possible after the law enforcement agency collects or receives the data.
- (2) A law enforcement agency is not required to comply with Subsection (1) if:
 - (a) deleting the data would also require the deletion of data that:
 - (i) relates to the target of the operation; and
 - (ii) is requisite for the success of the operation;
 - (b) the law enforcement agency receives the data:
 - (i) through a court order that:
 - (A) requires a person to release the data to the law enforcement agency; or
 - (B) prohibits the destruction of the data; or
 - (ii) from a person who is a nongovernment actor;
 - (c) (i) the data was collected inadvertently; and
 - (ii) the data appears to pertain to the commission of a crime;

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(d) (i) the law enforcement agency reasonably determines that the data pertains to an emergency situation; and

(ii) using or disclosing the data would assist in remedying the emergency; or

(e) the data was collected through the operation of an unmanned [~~aerial vehicle~~] aircraft system over public lands outside of municipal boundaries.

Section 5. Section **63G-18-105** is amended to read:

63G-18-105. Reporting.

(1) [~~(a)~~] Except as provided by [~~Subsection (1)(b)~~] Subsections (2) and (3), before March 31 of each year, a law enforcement agency that operated an unmanned [~~aerial vehicle~~] aircraft system in the previous calendar year shall submit to the Utah Department of Public Safety, and make public on the law enforcement agency's website, a written report containing:

[~~(i)~~] (a) the number of times the law enforcement agency operated an unmanned [~~aerial vehicle~~] aircraft system pursuant to a warrant, or should have operated the unmanned aircraft system pursuant to a warrant, in the previous calendar year;

[~~(ii)~~] (b) the number of criminal investigations aided by the use of an unmanned [~~aerial vehicle~~] aircraft system operated ~~{pursuant to a warrant, or that should have been operated pursuant to a warrant, }~~ by the law enforcement agency in the previous calendar year;

[~~(iii)~~] (c) a description of how the unmanned [~~aerial vehicle~~] aircraft system was helpful to each investigation described in Subsection (1)[~~(a)(ii)~~](b);

[~~(iv)~~] (d) the frequency with which data was collected, and the type of data collected, by an unmanned [~~aerial vehicle~~] aircraft system operated by the law enforcement agency on any person, structure, or area other than a target in the previous calendar year;

[~~(v)~~] (e) the number of times a law enforcement agency received, from a person who is not a law enforcement agency, data collected by an unmanned [~~aerial vehicle~~] aircraft system; and

[~~(vi)~~] (f) the total cost of the unmanned [~~aerial vehicle~~] aircraft system program operated by the law enforcement agency in the previous calendar year~~[-]~~, including the source of any funds used to operate the program.

[~~(b)(i)~~] (2) (a) A law enforcement agency that submits a report described in Subsection (1)[~~(a)~~] may exclude from the report information pertaining to an ongoing investigation.

[~~(ii)~~] (b) A law enforcement agency that excludes information under Subsection

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~~[(1)(b)(i)]~~ (2)(a) from the report shall report the excluded information to the Utah Department of Public Safety on the annual report in the year following the year in which the ~~[information was excluded]~~ investigation to which the information pertains is concluded.

(3) Notwithstanding Subsection (2)(b), a law enforcement agency is not required to submit a report under Subsection (1) if the law enforcement agency has not collected or received data that is required to be reported under Subsection (1)(a), (b), (c), (d), or (e).

~~[(2)]~~ (4) Before May 31 of each year, the Utah Department of Public Safety shall, for all reports received under Subsection (1) during the previous calendar year:

(a) transmit to the Government Operations Interim Committee and post on the department's website a report containing:

(i) a summary of the information reported to the department;

(ii) the total number of issued warrants authorizing the operation of an unmanned ~~[aerial vehicle]~~ aircraft system; and

(iii) the number of denied warrants for the operation of an unmanned ~~[aerial vehicle]~~ aircraft system; and

(b) post on the department's website each report the department received.

Section 6. **Effective date.**

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

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Legislative Review Note

~~as of 2-9-15 2:53 PM~~

~~Office of Legislative Research and General Counsel}~~