

# SENATE BILL REPORT

## SB 5782

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As of February 18, 2013

**Title:** An act relating to protecting Washington citizens from warrantless surveillance, reducing liability, and establishing clear standards under which agencies may utilize unmanned aerial vehicles.

**Brief Description:** Establishing standards for the use of public unmanned aircraft systems.

**Sponsors:** Senators Chase, Rivers, Kline, Benton, Nelson, Baumgartner, Darneille, Cleveland, Shin, Kohl-Welles, Keiser, Hasegawa, McAuliffe, Schlicher, Harper and Rolfes.

**Brief History:**

**Committee Activity:** Law & Justice: 2/20/13.

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### SENATE COMMITTEE ON LAW & JUSTICE

**Staff:** Sharon Swanson (786-7447)

**Background:** An unmanned aerial vehicle, commonly known as a drone, is an aircraft without a human pilot onboard. The flight is controlled either autonomously by computers onboard, or under the remote control of a pilot on the ground or in another vehicle. There are a wide variety of drone shapes, sizes, configurations, and characteristics.

In 2012, the Federal Aviation Administration (FAA) established the Unmanned Aircraft Systems Integration Office to provide a one-stop portal for civil and public use unmanned aerial vehicles in U.S. airspace. By the fall of 2015, Congress requires that the FAA integrate remotely piloted aircraft throughout U.S. airspace. Current FAA rules require civilian drones to weigh less than 55 pounds, stay below an altitude of 400 feet, and remain within sight of their operators.

Currently, dozens of law-enforcement agencies, academic institutions, and other agencies have been given permission by the FAA to use drones for nonmilitary uses such as firefighting, wildlife monitoring, and search and rescue operations.

**Summary of Bill:** Intent. It is the intent of the Legislature to provide clear standards for the lawful use of unmanned aerial vehicles by state and local jurisdictions.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

Prohibition. No state agency or organization having jurisdiction over criminal law enforcement or regulatory violations may procure a public unmanned aircraft system (PUAS) without the explicit approval of the Legislature. Approval must be given expressly for that specific PUAS to be used for a specific purpose.

No department of law enforcement of any city, county, town, or any local agency having jurisdiction over criminal law enforcement or regulatory violations may procure PUAS without the explicit approval of the governing body of such locality. Approval must be given expressly for that specific PUAS to be used for a specific purpose.

Criminal Warrant Requirements. PUAS may be operated and personal information from such operation disclosed in order to collect personal information only pursuant to a criminal warrant issued by a court of competent jurisdiction.

Warrants may not be issued for a period of time greater than 48 hours unless an extension is granted. In no event may a warrant last for longer than 30 days.

Exceptions to Warrant Requirement. A law enforcement official or a public official may operate PUAS and disclose personal information without a warrant when such officer reasonably determines that an emergency situation exists that involves immediate danger of death or serious physical injury to any person and:

- requires the operation of PUAS before a warrant can, with due diligence, be obtained;
- there are grounds upon which a warrant could be entered to authorize such operation; and
- an application for a warrant is made within 48 hours after the operation has occurred or begins.

If a warrant is subsequently denied, the personal information obtained must be treated as having been obtained in violation of the law and be served on the person named in the application.

Search Warrant Requirements. A search warrant may be issued by a court of competent jurisdiction: where there is probable cause; describing the place, property, things, or persons to be inspected or tested, or information collected; and the purpose for which the inspection, testing, or collection of information is to be made.

Within ten days of the execution of a search warrant, the officer executing the warrant must serve a copy upon the person or persons upon whom personal information was collected, unless the court determines there is reason to believe that notification of the existence of the warrant may have an adverse result. Notification may be delayed up to 90 days.

Any warrant issued must be effective for the time specified but not more than 15 days unless extended or renewed by the court.

The owner, tenant, operator, or custodian of the premises must be present when a warrant is executed unless the court finds it necessary to do otherwise. No forcible entry is allowed unless the issuing officer finds specific reasons to do so.

Challenging a Search Warrant. A warrant may be challenged prior to its return to the issuing court when:

- an owner or custodian submits a substantial preliminary showing that a statement included in the affidavit for the warrant was false and made knowingly and intentionally or with reckless disregard for the truth; and
- the false statement was necessary to the find of probable cause.

A warrant may be challenged after it is returned to the issuing court when:

- the challenge is as a defense to any notice of violation; or
- by declaratory judgment action brought in court.

The review must be confined to the face of the warrant, affidavits, and supporting materials presented to the issuing judicial officer.

Use of Personal Information. No personal information collected on an individual or area other than the target that justified the issuance of a search warrant may be used, copied, or disclosed for any purpose. Such personal information must be deleted as soon as possible and no later than 24 hours after collection.

Personal information collected on any individual or area specified in a warrant must be deleted within 30 days of collection unless there is a reasonable belief that the information is evidence of criminal activity or civil liability related to the reason the unmanned public aircraft was utilized.

The unauthorized disclosure of personal information under this act is punishable as a class C felony.

Reporting Requirements. Judicial officers who issue warrants for PUASs must report to the Chief Justice of the Supreme Court by July 1 of each year.

Law enforcement agencies that applied for criminal search warrants must report annually to the chief of the Washington State Patrol (WSP).

State agencies that applied for a search warrant or extension of PUAS must report annually to the Governor.

The Chief Justice, WSP, and the Governor must report by December 1 of each year to the Legislature a summary and analysis of all data received.

General PUAS Requirements. Any locality permitting the use of PUAS must:

- publish publicly available written policies and procedures for the use of PUAS;
- by ordinance, require law enforcement to maintain records detailing each use of a PUAS;
- conduct an annual comprehensive audit on the operation of all PUASs; and
- review annually the use of PUASs and consider the benefits and risks to privacy before authorizing the continued use of PUASs in the locality.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Committee/Commission/Task Force Created:** No.

**Effective Date:** The bill contains an emergency clause and takes effect immediately.