

SENATE No. 1348

The Commonwealth of Massachusetts

PRESENTED BY:

Michael O. Moore

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to the use of unmanned aerial systems.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>Michael O. Moore</i>	<i>Second Worcester</i>	
<i>Keiko M. Orrall</i>	<i>12th Bristol</i>	<i>2/3/2017</i>
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>	<i>2/6/2017</i>

SENATE No. 1348

By Mr. Moore, a petition (accompanied by bill, Senate, No. 1348) of Michael O. Moore, Keiko M. Orrall and James B. Eldridge for legislation relative to the use of unmanned aerial systems. Public Safety and Homeland Security.

The Commonwealth of Massachusetts

**In the One Hundred and Ninetieth General Court
(2017-2018)**

An Act relative to the use of unmanned aerial systems.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Chapter 272 of the General Laws, as appearing in the 2014 Official Edition,
2 is hereby amended by inserting after section 99B the following section:—

3 Section 99C.

4 (a) As used in this section, the following words shall have the following meanings:—

5 “Unmanned aerial vehicle”, an aircraft that is operated without the possibility of direct
6 human intervention from within or on the aircraft.

7 “critical infrastructure facility”, a facility that is owned or leased for one of the following
8 purposes:

9 (i) a petroleum or chemical production, transportation, storage or processing facility

10 (ii) a chemical, polymer or rubber manufacturing facility

11 (iii) a water or wastewater treatment facility and water distribution or conveyance system

12 (iv) a power generating station plant or substation

13 (v) a federal or state military installation or facility

14 (vi) a natural gas compressor station

15 (vii) wireless telecommunications infrastructure

16 (viii) a facility identified and regulated by the United States Department of Homeland

17 Security Chemical Facility Anti-Terrorism Standards (CFATS) program

18 (b) Any use of an unmanned aerial vehicle shall fully comply with all Federal Aviation
19 Administration requirements and guidelines. Unmanned aerial vehicles may not be equipped
20 with weapons. The acquisition, purchase, or procurement of unmanned aerial vehicles shall be
21 authorized, in the case of a unit of state or county government, by the Secretary of Public Safety,
22 or, in the case of a municipality, by the city council or other governing body, subject to approval
23 by the Secretary of Public Safety. No person shall knowingly operate an unmanned aircraft over
24 a critical infrastructure facility if the unmanned aerial vehicle is less than 400 feet above ground
25 level, or come within a distance of a critical infrastructure facility that interferes with the
26 operations of the facility.

27 (c) It is unlawful for a government entity or official to operate an unmanned aerial
28 vehicle except as follows—

29 (1) in order to execute a warrant issued under section 2 of chapter 276.

30 (2) for purposes unrelated to criminal investigation or other law enforcement purposes,
31 provided that information derived from such operation shall not be received in evidence in any
32 criminal trial, hearing, or grand jury proceeding, or maintained, shared, or used for any
33 intelligence purpose.

34 (3) in case of emergency when there is reasonable cause to believe that a threat to the life
35 or safety of a person is imminent, subject to the following limitations:

36 i. the operator shall document the factual basis for the emergency; and

37 ii. not later than 48 hours after the unmanned aerial vehicle is initially deployed, a
38 supervisory official shall file an affidavit describing the grounds for the emergency access.

39 (d) The lawful operation of unmanned aerial vehicles described in subsection (b) and the
40 disclosure of information acquired by the operation of such vehicles shall be subject to the
41 following limitations:

42 (1) When operated pursuant to a warrant, unmanned aerial vehicles shall collect data only
43 on the warrant subject and avoid data collection on individuals, homes, and areas other than the
44 warrant subject.

45 (2) Facial recognition and other biometric matching technology shall not be used on data
46 collected by an unmanned aerial vehicle, except to identify the subject of a warrant.

47 (3) Under no circumstances shall unmanned aerial vehicles be used to track, collect or
48 maintain information about the political, religious or social views, associations or activities of
49 any individual, group, association, organization, corporation, business or partnership or other

50 entity unless such information relates directly to investigation of criminal activity, and there are
51 reasonable grounds to suspect the subject of the information is involved in criminal conduct.

52 (e) Data collected on an individual, home, or area other than the target that justified
53 deployment shall not be used, stored, copied, transmitted, or disclosed for any purpose, except
54 with the written consent of the data subject. Such data shall be deleted as soon as practical, and
55 in no event later than 24 hours after collection.

56 (f) Information acquired by government use of an unmanned aerial vehicle and
57 information derived therefrom shall not be received in evidence in any judicial, regulatory, or
58 other government proceeding if:

59 (1) the use of the unmanned aerial vehicle was unlawful;

60 (2) the unmanned aerial vehicle was used for an unlawful purpose or in an unlawful
61 manner; or

62 (3) the disclosure would be in violation of the data retention limits in subsection (e).

63 (g) A government office or public official may include in its application for a warrant a
64 request for an order delaying the notification required under subsection (g) for a period not to
65 exceed 90 days, and the court shall issue the order if it determines there is reason to believe that
66 notification of the existence of the warrant may have an adverse result as defined in section 1B
67 of chapter 276. Upon expiration of any period of delay granted under this subsection, the
68 government office or public official shall provide the warrant subject a copy of the warrant
69 together with notice required under, and by the means described in, subsection (h).

70 (h) Not later than seven days after information is collected by an unmanned aerial vehicle
71 pursuant to subsection (c)(1) of this section, the government entity or official shall serve upon, or
72 deliver by registered or first-class mail, electronic mail, or other means reasonably calculated to
73 be effective as specified by the court issuing the warrant to the subject of the warrant a copy of
74 the warrant, a copy of the application for the warrant, and notice that informs such individual:—

75 (1) of the nature of the law enforcement inquiry with reasonable specificity;

76 (2) that information regarding the warrant subject was collected, the dates on which the
77 information was collected, and a description of that information;

78 (3) whether notification was delayed pursuant to subsection (h); and

79 (4) the judicial official authorizing any delay in notification.

80 (i) On the second Friday of January of each calendar year, any judge issuing or denying a
81 warrant under subsection (c)(1) during the preceding calendar year shall report on each such
82 warrant to the office of court management within the trial court:

83 (1) the fact that the warrant was applied for;

84 (2) the identity of the government entity or official making the application;

85 (3) the offense specified in the warrant or application therefor;

86 (4) the place where the information was to be obtained;

87 (5) the fact that the warrant was granted as applied for, was modified, or was denied; and

88 (6) the number and duration of any extensions of the warrant.

89 In June of each year, beginning in 2013, the court administrator in the office of court
90 management within the trial court shall transmit to the legislature a full and complete report
91 concerning the number of applications for warrants authorizing the use of unmanned aerial
92 vehicles pursuant to subsection (c)(1) of this section. Such reports shall include a summary and
93 analysis of the data required to be filed with that office. Such reports shall be filed with the
94 offices of the clerk of the house and the senate and shall be public records. The court
95 administrator in the office of court management within the trial court shall issue guidance
96 regarding the form of such reports.

97 Section 2. Section 65 of Chapter 131 of the General Laws, as appearing in the 2012
98 Official Edition, is hereby amended by adding, in line 3, after the word “helicopter” the
99 following words:-

100 “or unmanned aerial vehicle,”